

The Judicial Council of California is the constitutionally created policymaking body of the California Courts. The Council meets at least six times a year for business meetings that are open to the public and audiocast live via the California Courts website. What follows is a formatted and unedited transcript of the meeting of October 28, 2011. The official record of each meeting, the meeting minutes, are usually approved by the Council at the next business meeting. Much more information about this meeting, the work of the Judicial Council, and the role of the state court system is available on the California Courts' website at <http://www.courts.ca.gov>.

>> We're going to get started. Good morning. This is the business meeting October 28, 2011. The meeting is now in session. Again, some housekeeping matters all of you are familiar with this, but it bears repeating, our business meetings as well as our educational meetings are audiocast live with realtime captioning on the California Court's website. Portions are also videotaped for later broadcast on California Court news or more commonly known as CCN, also portions can be accessed on the California Courts website. So for the benefit of all, but especially to enable our online listeners to follow our discussion I remind Council members several things first speak into microphones, second address each other by name and also raise your hand and wait to speak so others may follow and know who is speaking at any given time. We also have several presenters throughout the day for our agenda items. We welcome them and will introduce them at the time their presentation is being made. Concurrent with our meeting today, is the fall conference of California on my honor, it is the civics training program for teachers being held in the building. This is a outreach program collaboration with the California state university and the AOC. So teachers from around the state attend intensive civics institute focused on the Judicial Branch and there they gather new strategies and resource materials, that they take back to their classrooms. So this is simply one of the public outreach programs we undertake to educate young Californians about the role of the Courts in a free society. The first item on our agenda as you can see is the swearing in of new Council members. We have President seven incoming members. About a third of the membership turns over. This creates opportunities for new participation for Court leaders statewide. All Council members volunteer their service on this body and its Advisory Committees and task forces. They don't represent individual Courts or, geographic areas. Many of the new members have observed previous Council sessions and also had the orientation to the rules and procedures and I will invite each of the new members to join me at the head of the boardroom for the oath. These are Judge David De Alba Superior Court of California county of Sacramento men, Judge Teri Jackson Superior Court of California county of San Francisco. She has been a member. She was an advisory member appointed to a voting member. Presiding Judge David Rosenberg Superior Court of California. Miss Angela Davis, assistant U.S. attorney, U.S. attorney office for the central district located in Los Angeles. Mr. Mark Robinson attorney at law. And Mr. David Yamasaki Court executive officer Superior Court of California county of Santa Clara. If you come up I will administer the oath of office.

>> Photo opportunity here.

>> With a wide angle lens.

>> What are you saying about me?

[ Laughter]

>> I will administer the oath then we'll take a picture.

>> Please raise your right hand repeat after me. I, do solemnly swear that I will support and defend, the constitution of the United States, the constitution of the State of California, against all enemies foreign and domestic. And I will bear true faith and allegiance to the constitution of the United States, and the constitution of the State of California. And I take this obligation freely. Without any mental reservation or purpose of evasion. And that I will well and faithfully, discharge the duties upon which I'm about to take. Thank you for your service congratulations.

[ Applause ]

>> We're going to on three, one, two, three.

>> Do it on two.

>> One, and two, and three. Excellent. Thank you.

>> There are memento

[ Inaudible ]

>> Thank you.

>> In our agenda this is also the opportunity now for the public comment period. I have been notified that we have not received any requests to speak for our public comment period. We also have an opportunity to receive written comments and we have as you see written comments received for today's business meeting from presiding Judge Steve White, affiliation with Superior Court of California county of Sacramento. His topic for his written comments were the impact of the proposed rules, forms and standards on the Superior Court of California for the county of Sacramento and other counties. You have that written material. I also understand that in addition to the minutes that need to be, we need to approve two sets of minutes. The July 22 set of minutes as well as the September 9, 2011 business meeting minutes. As well as, from what I can see also the August 26. We have three sets of minutes. September, August 26, September 9, and then the former earlier one from the summer July 22. Council had an opportunity to review the minutes do I hear a motion?

[ Inaudible ]

>> We are only looking at July 22 and September 9.

>> Uh-huh.

>> Thank you.

>> I had Judge moved approval a second from Judge Waters. All in favor?

>> Aye.

>> Any opposed?

>> Minutes are approved.

>> This is also the opportunity for the Chair to deliver a report of activities and events from the last meeting. So let me first point out the obvious that seated to my right is a familiar face, but in a new position, effective September 10, and with the retirement of bill, Ronald Overholt became the interim administrative director and secretary too the Judicial Council. Ron himself is a member. Served on many Committees. He joined the AOC as deputy administrative director in 2000. We're fortunate to have him in this intersimilar position as the Council conducts a comprehensive executive search. Ron will be giving the Council an update on the status later of the State Budget as part of his report as the the administrative director. So since our early September meeting, I have continued to travel around the state to meet with Judges, bar leaders and community groups. I will mention a few. The Supreme Court held a special oral argument session at Hastings on September 7 as part of its outreach to law students. We were especially proud of that session because it was held in the Justice Marvin and Jane Baxter Appellate Law Center at Hastings. Also at the invitation of Judges in San Joaquin, I attended Court at Humphreys law school in Stockton September 8 named after the 9th circuit district Judge Callahan. Several Judges met on September 21 and 22 for their annual conference. I was happy to deliver the luncheon address and speak with them and hear their comments and concerns about this invaluable program to Court. I also had the opportunity to tour with Judges and Court staff in Santa Cruz and Fresno as well as at the Courts of Appeal in the 5th and 6th district. Among the bar events I attended were the civil Justice association of California dinner, the San Mateo County Bar Association diversity forum. State Bar scholarship reception for law students interested in public law affairs. The Santa Cruz Monterey bar association. The women lawyers dinner, the Saint Thomas society at Santa Clara university dinner. The Fresno county women lawyers and the Fresno county bar association annual Justice Pauline Hanson dinner. The unity bar association of Sacramento annual awards dinner. Earlier this week on Tuesday I was honored to give the 2011 Bernard lecture. At the invitation of the LA County Bar, Justice Epstein and Justice GERSH here as part of Council. I delivered the Ronald M. George Lickture and participated with a panel with Justices from around the country. That was a program sponsored by golden gate university school of law and moderated by Justice Klein. Last month in long beach I had the pleasure of attending the annual meeting of the State Bar and CJA conference. Among the many events there, I delivered the keynote address at the California women lawyer's dinner. I gave my first annual address to the State Bar, and had the delight to participate in a conversation with the Chief as arranged

by the California Judge's association. And also with CJA I attended the breakfast where Justice Miller, Judge Herman, Judge Rosenberg participated in the panel discussion moderated by Judge Reuben. At all of these events I see many of you participating actively involved in community. Often responsible for the invitation to bring me to your county. I thank you for your outreach there as well. I know with the work you do during the day your work here, your work on task force and attending these it is all very meaningful and important you are out there and it doesn't go unnoticed. I can also report the Supreme Court has a full compliment of Justices. The commission that on August 31 to confirm Governor's appointment to the Court. Exceptionally well qualified and fills the seat of the retirement of Justice Marino. As an interesting fact, the Court called on over 40 Appellate Justices to sit Pro Tem on cases. I thank all of them for their service. Lastly before I end my report, while on the subject of service, earlier this month, we received bittersweet news that is that our Council colleague Judge Pines announced his intention to retire from the bench at the end of the year. The Council will meet at least one more time before then and we'll have that opportunity to thank Judge Pines for his service, but Burt your retirement is a loss to the Court in Los Angeles and Judicial Council and Court statewide. I know we'll talk about it next month, but, or in two months, but we will miss your wisdom and test questions.

[Laughter]

>> But we congratulate you on your decision and we know that you will still be around to assist the state in any way possible.

>> I mentioned that. I'm not going to be gone from the scene I will be around thank you.

>> Thank you Judge Pines. That concludes my report. At this point I would turn it over to our interim administrative report.

>> Thank you Chief Justice. I just began with indicating how pleased I am and what an honor it is to be able to serve in this position. I appreciate the trust and confidence that you have in me. To serve as interim director. I would echo the comments about Judge Pines it was a surprising phone call that I received while I was sitting in the Oakland airport, Judge Pines called me and told me, of his plans to retire and I told him the same thing. Chief, that those would be big shoes to fill and that we would truly miss him. Wish him the best. So you have a written report, from me at your place. That you can read it at your leisure. I won't go over all of the items in writing you can read those. I would indicate, with me taking the role of interim administrative director of how pleased I'm that Christine patten who is at our table was willing to step up and serve as interim Chief Deputy Director. Chris, has been with us for the last nine years as the regional administrative director for the bay area north coastal region. And, formerly served in the Court as the executive officer for many years so her experience on the ground in the Trial Courts is really served her well in the Regional Administrative Director position and will serve her well as the chief deputy, so, thank you Chris for your willingness to step up. I want to give you a little information about what is happening within the Administrative Office of the Courts. Of course like all of the Courts, we're faced with serious budget

reductions we took a budget reduction of 12%. In the AOC which is \$13 million. Which was a sizable amount to be able to deal with that. It resulted in a hiring freeze that continues. Except for, urgent positions that need to be filled. Of course with the exit of Stephen Nash as our finance director we needed a finance director so we were fortunate to find someone to serve in that position. So that is one of, very very few hires that we have done as a result of folks exiting the AOC. AOC has continued as have the Supreme Court employees and the Appellate Court employees to be furloughed one day a month. We've had furloughs for three years and that is continuing. AOC, Court of Appeal and Supreme Court employees have had no colas for the last four years. No coast of living adjustments. We had a number of retirements as you can see from the number of folks that have interim before their title. A number of retirements and in addition to that, we have instituted a voluntary separation incentive program similar to what was done in the Orange county Superior Court and other Courts to encourage folks who would like to exit the AOC to be able to do so. We had about 48 I think, staff indicate an interest in doing so. And the criteria for approving those was that we needed to not have to fill behind those positions so we would have the salary savings from having those vacant positions. Not all of those 48 were able to actually be approved for that.

But we will have over 30AOC employees leaving employment with us. I can tell you, while, you know as compared to layoffs, I think that is a far Superior way to be able to have a reduction in staff. However when I look at the list of AOC employees who opted for that, it is painful to see the talent that is leaving here in the reduction. It will enable us to meet our budget reductions however in the process. So, other activities, we have done a number of restructuring within the AOC. One significant one is to combine two of our divisions into one. Chad Finky who is sitting in the audience has stepped up as have a number of AOC employees to lead two divisions instead of the one he had before. With the retirement of Ken. We have two divisions now called the Court programs and services division. It combines the executive office programs division and the trial and Appellate Court unit that Chad had previously. I'm also announcing today that effective Tuesday, we will combine the three administrative directive positions into one. Joey Patel will be for all three regions and she will continue to be located in Sacramento as her base, but she will be responsible for all three divisions. Will be located in the seven regional office and the bay area north coastal regions. Consolidating those eliminating two director positions in addition to the Ken CON position we eliminated when he retired. We're actively reorganizing and shrinking executive leadership at the AOC. Just my activities I think I have been to most of the appearances that the Chief has been to not all of them. I have been in the process of trying to visit as many Courts as I have. Been visiting as many Courts with no agenda other than to try to find out what is going on in those Courts. What are the problems. What the problems are to indicate what my plans are and any assistance that we can provide. We've been to 25 or so, at this point, I think the next one is Santa Clara on November 10. There will be a full Judge's meeting and, I will be there to speak with that Court. The Chief mentioned the State Budget and it is very, very early in the process. We had a positive meeting I think with the director of finance. At the end of September and discuss with her our general approach going forward we need to establish a base budget on behalf of the Courts we can't continue to be in sort of a general slide or reduction that we need to, we believe we have reached the edge of the cliff as I described that we can't take further cuts

and we need restoration of our general fund contribution in order to be able to perform our constitutional mandates. Also potential revenue, potential fees possibly a permanent reduction of statewide funds that are there whether that is facility funds or other funds, but define funding that would enable Courts to be able to establish a base budget that essentially, works um, assuming the \$300 million offset that was provided on a one time basis this year. It's a little early to be optimistic. She was I would say less pessimistic than former um, finance directors at this time of year. And the uncertainty in the State Budget is certainly still there and, so it's early. We wanted to be able to have that conversation with her early and meeting in September is earlier than we would normally begin that discussion, however given the severity of the budget situation with the Courts and the concerns that Courts have, with the need to plan for next year, whatever it is going to bring, we wanted to begin the conversation early as she beginning to develop the outline of the budget she is going to provide to the Governor that he will release the second weekend in January. So, we felt that it was important to have she indicated to us, that um, there were concerns about the trigger that is built into the budget, that if, a level of revenues don't come into the state, that they would need to pull triggers that would add additional cuts to various areas of state government. There was concern that those would be difficult. And, the Courts would be at risk of seeing further reductions. She indicated they are already established at the courts have already had their cuts. The last \$150 million reduction we had at the end of June is the equivalent of our trigger and it's already been pulled. That was positive news. She also indicated there are no plans currently and it's still very early, to sweep construction funds as was done this year. We'll continue to advocate on behalf of the facilities and the Trial Courts in terms of having those funds available for new construction. Finally on the issue of facilities, we had very good news this past week, bonds were sold for two of our projects. The 1732 projects. That will build the courthouses. Part of the good news was, the interest rate on those bonds was I think, 4.8%. At which was very low. Much lower than was projected so that will, you know, result in a very positive outcome in terms of savings and paying off. We have three more debt project where is the bonds will be sold at the beginning of November. Those will build San Bernardino, Riverside, mid-county. That's a positive movement in terms of the progress. On the facilities front, that Justice Brad hill Chair of the fort facilities working group, metaphor two days last week had very productive meetings. You will be receiving a report from Justice hill and his Committee at your December meeting.

But they are very actively looking at ways to be more efficient, reduce scope with some of the buildings that are planned and, to be as accountable as possible and efficient as possible in terms of the facility's program that is underway now. That concludes my report, Chief.

>> Thank you. Any questions?

>> I don't have a question, but I wanted to thank Ron for sending out the weekly or by weekly or whatever, reports of things happening to keep us updated between meetings.

>> Thank you. We will hear from Justice Baxter on the Policy Coordination and Liaison Committee.

>> With the September 9 close of the 2011, 2012 legislative session the meeting schedule of the policy Committee has relaxed somewhat since my last report to the Council. The policy Committee has met three times since that last Council meeting. And on September 2, the Committee met to consider recent amends to AB1403 that related. These amendments were based on the work of a subCommittee of the Council Civil and Small Claims Advisory Committee resulting in the bill that ultimately was signed into law. At its September 14 meeting, updates on the budget and legislative priorities were given and discussed. Yesterday's meeting was our annual in person meeting, because as you know all other meetings are by conference call because of the rapid pace of bills, within the legislative arena. So at yesterday's meeting, we provided an orientation for the new policy Committee members on the operations of the policy Committee and we reviewed and made recommendations for Judicial sponsored legislation and legislative priorities and those matters will be discussed and presented at the, to the full Council at the December meeting. So, stay tuned for that. I would like to welcome our new policy Committee members. Judge Pines assures me that receiving notice of membership on the policy Committee had absolutely nothing to do with his prompt retirement.

[Laughter]

>> Welcome Judge Pines as well as Judge Robert.

>> It will be a short assignment.

>> I heard you promised the appointment secretary you would serve longer than that.

[Laughter]

>> Welcome also to Judge Robert Moss, Judge Mary Ann O'Malley, Judge David Reuben, Angela Davis, mark Robertson and Kim Turner. Welcome back those member who had served previously on the policy Committee. At yesterday's policy Committee meeting, the Committee considered recommendations for the Council's key legislative priorities for the 2012 session. And, some of these are very familiar to you. They are continuing. Legislative priority items. They relate to securing sufficient funding in the budget. Improving efficiency. New Judgeships, ratifying the authority to convert certain vacant subordinate Judicial officer positions to Judgeships and continuing to advocate to oppose Assembly Bill 1208. Um, a Committee also reviewed two proposals for Judicial Council sponsored legislation that came up through the Advisory Committee and public comment process. The proposals that will be presented to the Council relate to cleanup of statutes concerning discovery of electronically stored information and notice to creditors of decedents estates. For your information, this legislative year the Governor signed 924 regular session bills and vetoed 128. The vast majority of the Judicial Council sponsored proposals were enacted this year. With one bill vetoed that was Senate Bill 503, which would have allowed JRS2 members who previously served as subordinate Judicial officers to purchase a fraction of their JRS2 service credit and not simply be limited to all of their SJO years. The bill was vetoed along with all other

pension related bills. Because the Governor says that he wants to address pension reform in a comprehensive manner and I'm sure we'll be hearing more about that based on what occurred yesterday. The legislature will reconvene on January 4 for the second year of the 2011/2012 two year session. I will be bringing you up to date throughout the session on Judicial Council sponsored bills, budget issues, and bills of interest to the branch. So if you do have any questions, um, either Curt or I or perhaps I don't know if Donna is here, will be happy to respond to any questions you might have.

>> If you don't mind I did have a question of Mr. Overholt. I just wanted to go back to something he said. I appreciate what has been going on at the AOC and the reductions that have occurred and I know many divisions of the AOC are strained right now because of these reductions. We all see that and appreciate that. There was an article recently, that caused some concern and I wanted to ask you about it Ron consistent with my practice of asking questions.

>> Yeah just said how much we were going to miss you.

[Laughter]

>> I just called your attention to this. There was this article recently in response to a request from Judge Kevin McCormick that he was advised that the administrative offices employing 110 temporary staff from Appel 1 temp agency cost as as much as \$215,000 a year could you clarify what is going on and what the response is?

>> Sure that's a fair question. We do um have a number of temporary staff, Appel 1 is the agency we contract with to provide temporary staff services. I think, about 25 of those staff are or were testers in other words, former most of them are former Court staff, Trial Court staff who were testing the CCMS product, so those will be gone. With the testing drawing to the end. That's one number. The other number are with our facilities unit where we transferred um, 533 buildings into the AOC's responsibility for maintenance and operation in December of '09 most of them, the bulk of those transferred in December of 2009. We still needed to be able to maintain those buildings as they came over. We could not, just, not maintain them. As as much as they pleaded with me to hire staff we didn't hire staff, but we did hire staff for the maintenance and operation. Also for all of the construction projects underway. There is 51 facilities under, in progress of being planned or actually built. So, a large number of the staff that are project managers and are overseeing the construction, that um, are for project that has a beginning and an end, that it was appropriate to have temporary staff to be able to provide those services. And, the other there are a number of staff sprinkling of temporary folks, providing services and the other divisions where, people have left and it's essential that we have a secretary and a division or a staff person in a position. So, I would just say that in government and in business, temporary employees are a part of the workforce as a common practice. It's not unusual to see temporary employees in the workforce. But it's a fair question. We do employ temporary employees.



>> Any additional questions? I will turn this over to Justice Miller. Chair of the Executive and Planning Committee.

>> Thank you, Chief. I too wanted to indicate I will miss Burt on the Council and especially though, the friendship we have developed over the last little time and the lengthy discussion we have between Council meetings. Also it's nice to know assignment to the Committee isn't the only assigned Committee that causes retirements.

[Laughter]

>> And, in somewhat of a response to the question that you just asked we had planned to have, a government discussion that ENP had set up for this education meeting concerning the AOC staffing levels, employment which would have included the temporary employee issue, but we had to deal with the CCMS issue so we're going to hopefully have that in December if nothing intervenes. I think a lot of the questions --

>> I will save it for December then.

>> Maybe we'll put it in January I don't know.

[Laughter]

>> The agenda did not include the presentation of the internal Chairs Committees reports. Therefore since the last regularly scheduled business meeting on August 26, ENP has met 11 times, 4 times by email and seven times by telephone. In the course of those meeting its Committee set the agenda for the special session September 29 and October 27 and 28 educational meeting. The Committee has dealt with a number of other Council issues and business aspects. The Committee received an update on the process and progress of the Judicial Branch operational plan for 2012, through 2015. AOC staff briefed the Committee on the status, the time line and mixed up the process for completing the plan. If anyone is interested in additional information on that, we'll provide that to you. But, just as a way of background, the Judicial Branch developed its strategic plan goals at six year intervals. It developed its operational plan at three year intervals. The strategic plan describes long range missions and goals for the state Court system. The operational plan sets forth specific objectives and desired outcomes for achieving the goals outlined in the strategic plan. The Executive and Planning Committee is responsible for setting the planning agenda and overseeing the process outside of the Council meetings. The Judicial Council provided initial guidance on the development of the mixed branch operational plan at its annual meeting, annual planning meeting on July I will get this right, June 22 and 24 this year. Just a couple of items regarding recent progress, two working groups have been formed. The Judicial officers operational planning working group, and the Court administrators, God you know this is like, all of these terms you know, Court administrators operational planning working group. Each will provide comments regarding Judicial Branch trend, assess the performance according to the existing operational plan and provide input into the data, collection, methodology. They

will comment in the development of the 2012, and 2015 plan and review the plan prior to the June 2012 Judicial Council Meeting.

The two groups particularly the Judicial officers operation planning working group, we utilized our new Judge David Rosenberg from the PJ's association. Had him invite a number of PJ's to volunteer. We also have included Court programs and services director, Chad FINKE and he has invited a number of Justices to join with that. We have 13 members on that working group. With regards to the Court administrators operational planning working group, Kim Turner and Alan Carlson invited Court executives to participate and also Chad FINKE invited clerk administrators. We don't have a Chair yet so if anyone wants to volunteer we have 11 members on that particular group. We also are going to discuss this with other stakeholders from the Judicial Council advisory Committees and from AOC leadership. We will also contact subject matter experts with regards to particular information to provide us the technical information about trends impacting the Judicial Branch. During the last couple of months, EMP has also reproduced the progress of our governance initiatives. We have discussed and clarified several aspects of that. The ENP Committee has directed AOC staff to schedule a preliminary review of the 2008 Judicial Council governance policy that was set forth in 2008. It's on a three year cycle also. So we're going to be looking at the formal Council governance policies to see if we need to make changes or additions. The Committee also directed AOC to publicize email addresses for the Judicial Council not you individually, but as a whole. And an ENP central email box, so that in future branch communications, with regards to issues of branch wide interests, they can email us it will go to a central location and then we can distribute that to the appropriate place. That was one of the suggestions at the CJA meeting. So thank you President Reuben with regards to that. The Committee also reviewed and approved two programs that we have talked about a number of times. Judicial Council member liaisons to the Trial Court, and also, the Judicial Council liaisons to the AOC divisions and we will be sending you a zoom rang email to ask you for your preference as to which Court or division you would like to be assigned to. We can't guarantee you will receive the one you asked for, but we will consider that and make those assignments and hopefully have those programs fully operational by our December meeting. The Committee also acted on behalf of the Judicial Council to approve 12 retirement resolutions. A Committee also made recommendations to the Chief Justice on the nominees for her appointment of the Judicial Branch representative on the California interagency Council on veterans. Then I did want to also mention based upon information that we and many other members of the branch and also those in state government and, California yesterday, received with regards to the Governor's proposal on pensions, and, we as a Council have made the appropriate assignment of that issue to Ronald Overholt and Curt child and we will be working on that particular issue. We also intend to work closely with CJA and deal with that together in that regards. Also, something that we talked about yesterday, one of the Executive and Planning Committees responsibilities is to establish agendas for Council meetings.

Sometimes the agenda items include reports to the Council that are required by prior Council actions. For example, reporting back to the Council about the progress of certain programs such as what was done yesterday, and today, concerning CCMS. Reports that are required by the rules adopted by the Council in that latter category, is the report that

the Council will receive at our December meeting about the rule of Court, the Council adopted effective January 2010, concerning public access to Judicial administrative records which is embodied in rule 10.500. The rule requires the Council to review and evaluate how the rule has been implemented since its adoption, including the number of requests received, the timing necessary to respond and other pertinent information. We expect to have a report on our December Council agenda. It is especially important I believe, in these times of reduced Judicial Branch resources for the Council to understand the impact of the rules the Council adopts. We do understand that in an effort to promote transparency, our AOC staff have been responding to nearly all of the requests made under this particular rule. Even where those asked for information or responses that go beyond the scope of the rule. With regard to the rule 10.500 implementation from this day going forward the Council has directed staff to comply strictly with the requirements of the rule, and not to go beyond the requirements set forth in the rule. We understand, and what we will ask for when this is returned to us is that they make a recommendation with regards to the appropriate standards that should be followed, that guidance be given to staff with regards to responding to that particular information, the scope of the rule, how and when to respond, all in the hopes of balancing the branch's commitment to appropriate transparency, necessary confidentiality and the reality of resource availability. All in attempting to meet the best need of the Court. That will be a report that we will have presented to us at our December meeting. Chief that is the report.

>> Any questions?

I did want to point out, to commend Council at ENP in acts so quickly yesterday after finding out of the Governor's announcement on pension reform and how timely it is since the Judicial retention and recruitment working group will be meeting on Tuesday as well. That will be very important news we'll be hearing at our next available meeting with post its and emails regarding the status of that I don't know what it is legislation or initiative. At this time I turn it over to the report of Rules and Projects Committee. Justice Holt.  
>> I would like to start by noting also, that I heard with regret that Judge Pines was going to retire at the end of the year. I think the easiest way for me to comment on my regard for his wisdom and abilities is to remind you how I attempted yesterday to elevate him to the Appellate Court.

[Laughter]

>> I wish it would have been more successful, but in any event Burt will have the opportunity in December to mark this better, but, we thank you for your service and you will be missed on the Council believe me. Chief, the rules and projects committee has met once in person and five times by telephone since the August 26 Council meeting. We met in person on September 9 by telephone on September 13 and September 30 and by telephone October 6 and October 13 and by email to review 56 proposals. Amended ethics for neutral arbitrators. I also was able to attend the northern California regional Administrative Office of the Courts meeting held September 28 in Sacramento and had the opportunity to speak to the northern California Trial Court presiding Judges on that occasion. Referring again to the 56 proposals in reviewing them, concerned about and

seriously considered the difficult fiscal and operational challenges facing the Judicial branch at this time. In response to concerns raised by Trial Courts to limit the number of rules and forms indeed, asking for a moratorium on new rules and forms which unfortunately, for reasons that I will refer to momentarily we're not able to fully um, implement in light of the times in which we're serving, we prioritized the forms and proposals.

Although all of the proposals presented were worthy, we have recommended adoption of only 27 rules and forms proposals today. The 27 proposals on the council's consent agenda which we recommend Council approval with the effective date January 1, 2012 meet the following criteria. They are statutorily required to be adopted or approved by January 1, 2012, number two they are needed because of statutory changes, or number three they are required by case law. Additional five proposals for which are expected to come before the Council at the December 13 meeting. These proposals meet the following criteria, they are necessary or useful to implement a statute. They are needed to adapt to and reflect current practices or correct and identify problems that requires urgent solution, or three, they are otherwise urgent or necessary for cost savings and efficiency. We will recommend that the remaining proposals be considered by the Council that meeting dates in 2012 and have effective dates July 1, 2012 or January 1, 2013 to allow the Courts more time to prepare for and implement any necessary changes. Following these decisions I communicated with presiding Judges, Court executives by email to inform them of the actions and to continue a dialog about the rule making process and the impact of that process and current rules requirements on the Courts and to assure them we did the best we could to eliminate these rules and proposals that come before you today to those that had to be implemented through other criteria I refer to. I received positive feedback in response to these actions and I look forward to hearing more from presiding Judges and Court executives about their concerns and suggestions for improvements. I intend to meet with presiding Judges at a upcoming meeting and hope to hear from Appellate Court clerk administrators. In addition to meeting for rules and forms, new members were also attended an orientation by telephone September 21 and members communicated by email October 19 to approve circulation for comment on a special cycle, of a proposal that would implement legislation signed on October 9. I would like to end my comments by commending the Advisory Committee Claires we met with considering all of these proposals on their understanding and flexibility during these difficult financial times. I would like to make note of a few of the proposals. Item 18, two rules form to facilitate post release procedures. The Criminal Law Advisory Committee works swiftly to propose these amends to assist the Courts in implements the new law. 824 is a proposal from the Family and Juvenile Law Advisory and bill 12. The California Fostering connections amended by 212. Foster care services to dependence and wards up to the age of 21 years. The legislation makes it possible to access federal funding for coster care services for depends and wards beyond their 18th birthday which will provide them with the time and support needed to gradually become fully independent adults. We considered whether this item should be discussed by the Council because it is lengthy and poses additional work load on the Courts, but concluded they are a result of the changes required by legislation and was not necessary this be discussed by the Council today. Four items item A15, 17, 18, A21 are joint proposals from the family and juvenile law assist in implements legislation that resulted from the final

recommendations of the family law task force. Includes is item A15 which proposes a rule of Court. Family Law proceedings under amended family code. This is a challenging and important area for Family Law Courts handling complex trial custody cases. It reflects a great deal of consideration as how to best support these court as they make decisions. I would like to thank and commend Deborah brown, Susan McMullen, Patrick O'Donnell and Camilla for their support and the rest of the RUPRO staff during this important rules cycle. That concludes my report. If there are questions I would be glad to answer them.

>> Any questions?

>> I just have a comment. Justice hull mentioned he was at the AOC northern regional meeting, last September where he offered a presentation about RUPRO and its rules and functions. I wanted to note in response to your encouragement that Judicial Council members be present that local or regional functions there were five members of the Judicial Council present at that meeting Judge Baker, Judge rosenburg, Judge Kaufman and myself. Judge Rosenberg moderated an excellent breakout session with presiding Justices and assistant presiding Justices and where there was a fabulous dialog about issues that concern Judges and presiding Judges in that region. There were 31 Courts represented. As I recall approximately 90 Judges present.

>> Thank you for sharing that information. Thank you. Next we'll hear from Judge Herman regarding the status of a report for the CCMS internal Committee.

>> Thank you, Chief. I will defer of course, discussion until our agenda item later this morning. The CCMS internal Committee has met three times since the last meeting of the Judicial Council. Once was a full day session, where we were thoroughly briefed by the Executive Committee as well as program management office staff on first of all, the outcome of the external and independent testing that was done or external audit that was done that was presented to the Council yesterday in terms of the results. We were also briefed on several different alternatives to bring back to the Council in terms of how we would precede forward in relation to the Council's directive to us at the last meeting. The full day meeting was substantive and informational in terms of providing information to the internal Committee. There after we met two more times by telephone, once to bring us up to speed on several additional alternatives, which had been presented to the Council by way of written report as well as to get additional background information from our own financial folks on some of the numbers that are involved with the CCMS project overall. Justice Ashmann-Gerst and I attended a meeting October 5 with representatives from doctor's group as well as with the doctor during that meeting we also met with representatives of State Bar and we will discuss that again later in our substantive presentation later this morning. In addition, as Chair, I met every week by telephone where briefed Justice and myself as well as, staff on what the progress was in terms of CCMS and um, the final acceptance of CCMS as a product which we were on the threshold of completing at this time. Also this Chair, frequent interaction with the um, CCMS Executive Committee. I attended on behalf of the interm Committee all of the meetings of the Executive Committee to be briefed in terms of the progress of CCMS and

in terms of what the Committee has been up to that would conclude my presentation and again, we'll revisit CCMS later this morning.

>> Thank you Judge Herman any questions for his report? Thank you. We have our consent agenda items A1 through A27 and B through F as described previously by Justice hull from RUPRO. I understand there has been no request to remove that so those matters all pass. That takes us next in the agenda to item G it's an action item. I would ask Justice Baxter and miss Claudia Fernandes to present.

>> Thank you, Chief. You will find our report and the information the awards and the nomination process pertaining to the 18th annual general Council distinguished service awards which also includes the Stanley Moss Defender of Justice Award all under tab J, and at this time, our recommendation for this year's recipients those recommendations are being handed out to the members of the Council. Annually the Judicial Council presents three distinguished service awards and a few special awards such as the Stanley MOSK Defender of Justice Awards. Improvement of the administration of Justice statewide. We received a number of nominations this year and had many outstanding individuals that exemplified the significance of these awards. One point I would like to note is that except for the Stanley MOSK award, nominees cannot be current members of the Judicial Council. And as we did last year, these awards will be formally presented as an event during our December Council meeting in San Francisco. The nominations were reviewed by the Chairs of the standing Committees, Justice Doug Miller, Justice Harry hull, and myself and, um, after much deliberation and discussion we're recommending for the Council's approval the following individuals for their extraordinary contributions and leadership. For the Ronald George Award for Judicial Excellence, we're recommending a joint award two individuals. The Honorable Justice Ronald Robie on the third Appellate district and the Honorable Brad hill presiding Justice of the 5th Appellate district. For the William C. Vickrey leadership and Judicial Administration Award we are recommending that that award be given to Michael planet, Court executive officer county of Ventura and for the Bernard E. WITKIN award to Joe attorney at law, and I might add that all of these individuals at one time or another, had previously served on the Judicial Council. For the Stanley Mosk Defender of Justice Award this honors an individual from federal, state and local government, for significant contributions to advancing equal access to fair and consistent Justice in California. Our recommendation is that award be given to senator NORENE Evans representing the second senatorial district. Those are the recommendations of the Chairs of the three standing Committees.

>> Thank you Justice Baxter. Any discussion, comment, question or statement? Judge.

>> I agree.

[ Applause ]

we have Mike planet in the building as well here. So Mike, for the William C. Vickrey award please stand so we can all see you.

[ Applause ]

I'm going to call for a motion.

>> So moved.

>> We approve those.

>> Seconded by Judge O'Malley and Judge Waters. All in favor?

>> Aye.

>> Any opposed? The matter carries.

Thank you well done. Next Bonnie would you like to come to the front?

>> I would be happy to come up.

>> Thank you, Chief. I just wanted to sit here so Bonnie could be present as well because so much of this work is really, um, been the lifelong dedicated work of Bonnie Huff. I'm here on behalf of regards. The California economy is struggling. The number of Californians in poverty grew for the fourth straight year in 2010 which is more evident that the continued high unemployment and struggling economy are weighing on the state's families. 6 million Californians last year, had incomes below the federal poverty line. That is a 16.3% representation of the state's entire population which is up from 15.3% in 2009. This lack of income doesn't mean that people living below the poverty line don't have legal problems. They do. Cases with domestic violence and consumer debt continue to flood our dockets. Many of these legal issues have dire consequences for the poor because these problems often affect basic human needs. Just as the need for legal services and pro Bono services continue to increase these sources are on the decline. Some Courts have been forced to reduce the sources they have been providing and other Courts fear they will have to do the same. The economic recession is also negatively impacting charitable giving and many legal nonprofits are working harder than ever to raise funds. Then to add to this perfect storm, as a result of current low interest rates, I also found through legal services programs in California have also decreased over the last three years. Those in the legal services community aren't just sitting back and lamenting the economy. California legal services organizations and the California State Bar have undertaken a campaign for Justice to raise funds for legal services as well as to increase pro Bono representation and the financial crisis facing. This coincides with the National Pro Bono Week. The members of the task force would like to thank the Council for supporting these efforts and declaring the month of October as Campaign for Justice Month and this week the last week in October as the national pro bono week. Lawyers that provide pro Bono assistance make a difference to clients they help and also to the communities. For example, helping with domestic violence victim and her family or his family prevents injury and costly medical expenses, and alleviates overworked law enforcement. Another example, helping a family keep its home prevents homelessness and burdens on shelter and other charitable and governmental services. Helping workers from being wrongfully terminated and allowing them to keep their jobs helps individuals put food on the table and pay their rent. Keeping a child in school

reduces truancy and juvenile crime and saves Court time and incarceration costs. Lawyers that do it don't do it for the recognition they appreciate that the Council appreciates their work. On the behalf of the task force and many Californias that will be afforded access to Justice because of these efforts we would like to thank the Council and its dedicated administrative staff, Bonnie Rose Hough, Deborah Chase and others. We are working to get closer and closer to the promise in our pledge of allegiance meaning Justice for all and that becomes a reality. Thank you, Chief and thank you Council. I want to see if Bonnie would like to add anything?

>> Thank you, Judge. I also want to acknowledge Mary Lowrey Flynn with us today with the State Bar she is an incredible leader in this effort. It's a great partnership with the State Bar as we move forward to continue to work to increase access to Justice and what a wonderful leader in Judge Yew.

>> Thank you, Bonnie. Ask Mary to please stand so we can recognize her as well. Thank you. It's been my experience that this is, a true legacy because it's a collaborative effort of different groups and different strengths to bring together to bring this attention to the public, and to find a solution and so I am, greatly indebted for the work you do bringing it to our attention. There is a resolution attached and you will be signing that. Thank you.

>> Thank you so much.

>> Any more comments or questions?

>> Yes.

>> I just wanted to thank the Council for this resolution and, the publicity in some sense surrounding this and thank Mary for all of the hard work she does in this particular area and including me on the access commission and the Justice gap fund and all of the other things that works in this particular area. It is greatly needed legal services provides just a great, great service to those who unfortunately, aren't able to secure lawyers on their own. It's great work and I thank the Council for its resolution.

>> Thank you.

>> Thank you.

>> Thank you. The next item, item J is an action item. The audit reports for Judicial Council acceptance.

>> Aye.

>> I'm sorry I skipped "aye."

>> I take no offense at that Chief.



[Laughter]

>> That was, was that a procedural error Judge Rosenberg? Thank you. Item I, the Judicial Council Meetings parliamentary procedures action required. Justice Hull and Mark Jacobson I apologize. Is mark with us today? Are you here? No.

>> No. We'll lose it don't worry.

>> I know.

>> Don't get excited.

>> Thank you again Chief as all of us will recall in our July 22 budget meeting, we ran into a situation where we had motions and, friendly amendments to motions and superseding motions and all kinds of motions. We realized at that time Chief Justice realized, that the Judicial Council had never established formal parliamentary rules of procedure. Because of the obvious need for that as we go through these issues on the Council that have varying points of view and sometimes are subject to close votes, the Chief shortly after that meeting appointed a parliamentary rules working group. I've had the honor of Chairing that group. Also on the group are Commissioner sue Alexander, Judge Teri Jackson, Judge Burt Pines and presiding Judge, David Rosenberg. We set about our work and we had a long, long head start. We started with Judge Rosenberg's revised rules of order that he established over many years. Serving on various public bodies that required parliamentary rules. We wanted to get back with proposed rules to start those and, gather some other ideas through Mark Jacobson who I must say I appreciate and the Committee appreciates his willingness to step in and take on very short notice and on a very short time frame this project. And we had a number of discussions and basically what we have placed before you today, are the parliamentary rules that have been adjusted if you will, in a way that we hope and think will best serve the Council in its future deliberations. I will only make, I won't repeat what is in the report, I will only make three additional comments. We have not yet sent the rules out for public comment. At first we thought, there may not be a need to do so because they really are in the truest sense internal working rules for the Council. In an effort to continue the Council's effort to gather the greatest public comment on all of our business, we ultimately decided especially because of the fact that we wanted to get the rules before the Council that we would present them today. Send the matter out for public comment if the rules are adopted today, and, if public comment is such, um, that the rules need to be amended we would bring that immediately to your attention. Secondly, we had some discussions on the effect of a vote to abstain, there is actually some case law up there that says it approved a set of rules that set a vote to object stain is an aye vote. We did not think, without going into the details of that we did not think that was appropriate for the Council's actions and so, as you can see from the rules, a vote to abstain is just that it is neither an aye nor a nay vote. There was also discussion about, what it meant when somebody in some situations in some organizations would vote absent even though they were sitting there to do so. We felt it was odd at the least to allow that and as you can see from the rules, a member who is present, in the Council chambers when a vote comes, is

expected to vote either yes or no or abstain. If the member is physically absent, I mean that's sometimes unavoidable, but, that physical absence, does no more or no less I suppose under the circumstances than, um, change the number of voting members on any given issue. And as you can see, we have carried forward with what the Council did this summer saying that on any motion, any none procedural motion there had to be 11 aye votes in order to carry the motion. So I will note those things. I will, be more than happy to give the floor to any Committee members that want to make additional comments or anybody on the Council who would like to ask questions of what we have put before you.

>> Judge Rosenberg then Judge Pines. First of all I want to say that Chairman Hull knows how to run a meeting and did a very nice job. Secondly I would like to say Judge Pines was on vacation for about a week during the discussion and so, we accomplished an enormous amount of work in that room.

[Laughter]

>> Then Judge Pines returned and we were somewhat delayed. But um, just to clarify one thing, these rules if adopted are really meant to apply to the Council. They are not meant to apply to internal Committees of the Council. Certainly Committees of the Council can use them if they wish, but, I think most of the internal meetings are run very informally so they are meant to apply to a large form of body such as the Judicial Council. Finally I think, the beauty of the rules is that they are simple and understandable. You can read them in less than a half hour and, understand them and I think that's, the important thing about rules. They do need to be understood. So. Thank you.

>> Thank you. Judge Pines.

>> I probably one of the few people around here that actually has read Robert's rules of order from front to back at some time having been involved in a lot of meetings. When was that written over 100 years ago I'm not sure.

>> Roberts was a major in the calvary what did you know about rules?  
But 100 years.

>> They are difficult to follow. You have to read them a number of times to understand them. What is marvelous about the draft that we had to work with, that originated with Judge Rosenberg they are so user friendly. You have to admit this is not the way ordinary rules are written in terms of, they are user friendly, easy to read. They get to the point they are accurate. Just was a delight to have your drafts to work with. It made everyone's job a lot easier. As I understand it, these rules have been adopted by a lot of public agencies across the state based on your original draft. I think it's a wonderful contribution you've made. I wanted to commend you.

>> Just for historical accuracy I wrote these originally I don't know 10, 20 years ago. They actually have been adopted by hundreds of cities, counties, special districts,

neighborhood associations, private corporations, around the country, and, I donated them to the league of California cities, they are republishing them should be out in a few weeks in pocket size addition.

>> Do you get a royalty from that?

>> No no royalty. Public service.

[Laughter]

>> Thank you.

>> If I may one more "I'm sorry Chief," go ahead.

>> Go ahead, Justice.

>> Not to prolong the discussion we have a great deal to do today, but I thought this is something that I might convey and I don't think the person that I'm going to refer to will mind me conveying to the Council or the public in general under the circumstances. During the course of our efforts in this I fell in the conversation with one of my chambers attorneys he said it brought back a memory for him that when he was growing up in the Midwest his father was quite involved in community affairs, community organizations and tended to carry with him at almost all times the copy of Roberts rules of order. My attorney noted as a child he thought that was remarkable because his father's name was Robert.

>> Not to be too technical, but would it be okay in the first sentence under introduction, it is referred to Judicial Council Meetings so there is no misunderstanding this isn't a general rule for all meetings ever the Council including the internal Council meeting. That is still an issue we're dealing with. This refers to a number of times to having to have 11 votes. Is there any problem we're having with that?

>> I think I can speak for the working group I don't see any difficulty with that change at all.

>> That was certainly the intent.

>> Okay.

>> If I may, we should note this was adopted as, not a formal rule of Court or anything, it's an attachment and so the Council can easily change, modify the rules over time.

>> As needed.

>> One of the things that EMP is dealing with and the governance aspect is voting by telephone and other things like that. This would impact that also.

>> We covered that.

>> Okay all right thank you.

>> I have a question. Is it um, implied that the Chair would be the parliamentarian or in your experience, is there a need to have someone advising the Chair as to when there are technical issues. In my experience there is almost always a need for someone to advise the Chair in this Council there will be no need to advise the Chair. The Chair can easily handle it.

[Laughter]

>> But, in other organizations, they often have a parliamentarian when needed. I don't see that need here.

>> Do we need a motion?

>> We do.

>> I make that motion. It is all I'm permitted to do as an advisory member. So, I would be happy to move the adoption of the Committee proposed. As submitted with the one change of the reference to the Judicial Council in the first sentence as Justice Miller suggested.

>> I will second.

>> Seconded by Pines and Alexander.

>> I want to say thank you for the work and the attention to detail. I appreciate especially the starting base. We know as, Justices, Judges and lawyers we can get mired in the amendments and the commas and the periods, but this is a true work of art. Thank you. All in favor?

>> Aye.

>> Any opposed? Matter passes.

>> Thank you, Chief.

>> You will have a pocket one for us?

[Laughter]

>> I will.

>> One signed copy.

>> I do.

>> Now I'm told it is J.

[Laughter]

>> This is the Judicial Branch administration audit reports for Judicial Council acceptance. We are welcoming Justice Richard Huffman, Chair of the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch. Long time member of Judicial Council welcome back Dick.

>> Good morning Chief Justice and members of the Council.

>> We also have the presiding Judge of Superior Court of San Joaquin county, Judge Robin Appel and the Court executive officer of that Court Ms. Rosa Junqueiro and John Judnick senior manager of the Finance Division.

>> Thank you, Chief Justice. As the Council members may recall, among the duties of the Financial Accountability and Efficiency Advisory Committee are to review audits ever the Trial Courts. The Administrative Office of the Courts the Appellate Courts before they are presented to the Judicial Council for ultimate placement on the Judicial Council public website. Its I think it is important to clarify the role of the Committee in this process it is not our role to supervise or give direction to the Trial Courts. Our role as we perceive it is to review these audits make sure they are complete. If issues have been raised by the auditor that the Court has not only had the time, but has responded and closed the issue. If in some instances that has not happened or in the case an issue has been raised that causes the Committee to believe the Judicial Council should pay particular attention to it we will set it on the request that it be set on the Council discussion agenda. In this particular Council session when you pass the consent item you did approve audit reports or acceptance from three Courts that the A and E Committee forwarded to you. Reports of alpine, and napa for acceptance and moving fourth. Our task in reviewing audit reports is to review all of these audit reports and to recommend acceptance to the international Council. And it to some point in our process we intend to make recommendations to the Council on either individual or systemic issues that we see during the process of examining these various audits. On September 2, the Committee met, for a full day as part of a two day session of the Committees getting organized and going through the learning process it needs to do for various tasks. We reviewed these four audits and, came to the conclusion that we recommend discussion of the San Joaquin audit. To simply to distinguish teen what we urge you to consider by consent that which we urge you to consider in your discussion agenda. The general characteristics you see in front of you, if any of thee audits lack any high risk nature of issues we don't see any exposure to improper operational losses, improper expenditures.

No defaultations have been identified. Only a minimum number of issues show any risk or exposure of areas that are of concern. On the other hand a general characteristic of an audit that we bring to you and courage you consider in public is where there is a one or a combination of characteristics, issues that could result in a diminished public confidence in the Court's ability to account for or manage the public and fiduciary funds. Our responsibility for the accountability aspect of accountability and efficiency identify those and bring them to the Court's attention first the reason the A and E Committee brought this to your attention we believe there has been a number of issues that have existed for sometime. The Court is trying to deal with this issue. As indicated to us, as they are strained and meeting their needs. The Committee's view is that financial accountability however is a need that has to be met.

>> It is a need that has to be met and it has to find its place higher in the priority. But, anyway, so I'll turn it over to John Judnick who will make his comments. The protocol of the committee when we do present a matter to the council in a section like this where there are some issues that you should know about, we always invite the court to participate, if it would like to do so, because we think it should provide an opportunity for a dialog with the council and give the court also a chance, if it has disagreements with any of our recommendations to voice that as well. So, John, if you would go through the audits and then we will turn it over to the San Joaquin court.

>> Thank you, Justice. Good morning, Chief. Good morning, Council members. To start off the presentation on San Joaquin, I'll just give you an overview as to the statistics of the Court. This is a medium-size court. 32 authorized judgeships, 4.5 subordinate judicial officers, a full-time equivalent staff of 365, with 8 in the fiscal unit of the Court. The court has 5 locations and they have 33 courtrooms. A \$48 million budget in '10, and '11 and with the allocation study the court has been classified as underfunded.

With respect to the issues in this audit report, many of them don't directly relate to a funding issue. Their basically accounting struggles and the court is stretched and I'll deal directly with funding. The audit report itself has -- was made available to council members on the website to review. I'll just cover a couple of key -- what we could consider key high risk areas on the issues of those areas. But as a high-level summary there were 161 reportable issues with 40 high risk categories and we can consider high risk categories areas where there's potential fiscal issues either fiscal loss issues, potential fiscal loss issues or significant fiscal impact. There are also numerous issues with possible significant financial impact that we're pointing out to the court again from the prior audit report from 2005/2006 that the court needed to address. There are, though, also some reportable issues with the court response indicating noncorrection for a timeliness in issue in terms of a correction that are impacted by their financial resources or lack of financial resources. Some of those areas are in the IS area, financial systems area, the facility area and physical security areas. In accordance to the policy as approved by the council, we've identified to the court those fiscal security issues and identified those separately in a report to the court, as they impact the physical security of the judges and court staff, those are not in the public report. The court has responded to the fiscal issues and it's in the body of the report and it's generally agreed to the issues. In that term they have agreed to the issues. We do have target dates and recommendations

for most of them where there are financial constraints. Many of the completion dates are subsequent to our field work and the correction status will be requested from the court and we have gotten an update the other day of the 161 issues that we've pointed out, approximately 105 have been indicated by the court that they have already corrected as of this point in time.

There are also some repeat issues as I go through this report just for your attention. There are not many. The prior audit of the Court in '05, '06 was more a readiness or a Phoenix review that wasn't as comprehensive as the current audit and, therefore, there are some differences between the two. This is a comprehensive audit, though, and some of the issues that we'll be pointing out are repeat from that.

In the cash handling processes and I'll go over this quickly not to bore you with the details and there are court cashiers in two locations sharing a cash drawer, that is a repeat from the court audit and I believe almost all of the cash handling processes outlined for you have been corrected as indicated by the court. There's a lack of documentation evidencing supervisor review with cash door positions. A high risk area from internal audits standpoint is void transactions. Void receipts were not always retained so audit couldn't review those. There's lack of documentation evidencing supervisory review and approval.

On daily closeout, there's an occasion here from the audit that the balancing reports were not always signed by the cashiers evidencing their approval of that final cashout. On mail payments, mail payments as unprocessed were not secured at night. They were left on desks. That in particular is a repeat from the prior audit. They weren't timely processed, which is very similar to many of our courts with that particular issue, as long as they're appropriately controlled and entered on a timely basis, audit does not have a problem with that. But they need to be properly secured and processed on a timely basis and the segregation of duties issue that is still with that court. That's a potential issue in terms of their resources. Bank deposits still in the cash area, segregation of cash duties, accounting, reconciliation, and depositing, in one case one particular individual performed all these incompatible functions and in support of review of preparing bank deposits.

Summarizing the cash area and other areas but without the appropriate internal controls and practices being followed according to the subject to the potential business risk of daily collections or assets being lost or stolen. Right after the audit report was released to the court, there was a defaultification resulted to \$2 million that was directly associated with one individual performing incompatible functions, the court has recovered those funds so there is not a loss but there is potential when you don't correct specific functions as pointed out, there is that potential for lost. In trust accounting, trust accounts were not reconciled and I use the past tense now. We're not reconciled for over two years as of the date of our audit the court has indicated that it's currently at March of this year in terms of getting its reconciles being closer to current. The court indicated that the problem was caused by the CMS system accounting reporting issues. One time -- a one-time -- a part-time employee working on reconciliations was using a custom report work-around to get current. And they have an issue with their CMS on the criminal side which you'll see in a moment.

Revenue distributions is a repeat issue from the prior audit. It's an issue we've identified as a systemic issue statewide revenue distributions are complex and they are

prone to errors and they can be significant at 18% per annum. As previously reported, internal audit services provides the courts as part of its audits with an update as to the calculations to point out issues. The primary responsibility for doing court -- what we call court revenue audits is the state controllers, unfortunately, the state controllers is roughly on a seven-year cycle so if you have an error from seven or eight years ago at 18% per annum, that can be a significant problem for the Court in terms of penalties. And that does occur without the state.

In particular for San Joaquin superior court, they have numerous distribution errors as pointed out in the audit report specifically in the high profile areas of traffic infraction, non-traffic infraction and misdemeanor cases. Specifically, for this court on the civil side they use V3, CCSV3 on the criminal side similar to our last audit they are still with the county EMS system that is 25 plus years old and in addition they're required because of the age of the system to use Xcel spreadsheets to -- that were developed by the county and were provided to the court and those spreadsheets as any spreadsheets, they're resulting from annual entry are very prone to error. We noted that as part of our audit. There are significant dollars involved here that go back in time.

On procurement practices, I won't dwell on a number of issues. There were a number of issues regarding procurement practices. These are repeat issues in general from the prior audit. And so we have written issues. We have on the purchase card transactions an indication of lack of appropriate signatures and the transactions on the court. The court manager who is approving some of these transactions was not on their approval matrix and we were missing and the court could not obtain 14 of the 20 tested procurement documents that we requested. Those are significant issues.

There are a lot of other issues. I've just covered the significant areas that we consider high risk areas. There are other areas that are summarized. They're in the report to review. But I think at this point in time, you know, we have Judge Appel and Rosa Junqueiro the court executive to answer questions.

>> Thank you, Chief, and court members. You know, the San Joaquin county court never had an audit for us and it was quite eye-opening. We always considered ourselves in spite of this audit to be good stewards of public funds and this audit pointed many things which have allowed us and we have already made significant improvements in our operations. Unless the issues cannot be resolved because of our funding issues, we have corrected or in the process of correcting everything the audit suggests. And I think there's two very significant things we would like the council to understand about this audit. The first and the most important and I think Justice Huffman and Mr. Judnick will confirm that there's finding of mismanagement of this audit. No mismanagement of trial court funding issues and that's not why we're here today. The second is that many of the issues reported in the audit occurred because of our ongoing lack of resources and cannot be resolved because of our lack of resources. It's no secret that our court has always been under-resourced and the recent budget cuts have decimated our court. I detailed the history and the reason why we need relief in my last appearance before the council and I'll be back to address our budget deficit.

Don't misunderstand we don't blame all of this on looks like of money. We had some practices that need to be corrected and the majority of them have been corrected at this point. There's one particular issue that we can't blame completely on resources and



although we are working on it, it is not completely resolved and that has to do with segregation of duties related to cash-handling procedures. We are working on ways to reassign staff and their duties and have a supervisor involved in that process now and we do anticipate it will be completely resolved within the year.

I'm not going to address every item in the audit. We'd all be asleep but I do want to explain just a few examples of things that can be fixed. The report stated that the court delayed implementation of the penalty assessment and fee increases pursuant to S.B.1407. And that is true. It was delayed. But, unfortunately, we had no ability to implement the assessment sooner although we did try to figure out ways to do it. Our criminal case management system is owned by the county. It's over 25 years old. And the county has one programmer and we're at his mercy as to the availability. It took him seven months to reprogram our system to be able to charge the fee. We had absolutely no control over it.

Our trust account reconciliations which had not been completed for several years are almost done now. Initially we didn't have qualified or sufficient staff to perform all the duties required by a finance department. We reassigned and hired staff increasing that department from 3 employees to 8 employees over the past five years. We are big supporters of CCMS. I think everyone knows that. It served us well. But the report had many issues which prevented us from completing the reconciliations. Custom reports were actually built for our court which has allowed us to catch up and ultimately we will be able to remain current.

Excuse me. There were a lot of individual entries in the audit making it look much bigger, which pointed out errors in fee and fine distributions for criminal and traffic. And Mr. Judnick did talk about that. Although it may be -- appear to be a lot, it is actually a very small number of overall entries. Our case management systems have very limited functions and many of these entries are done manually. It is a very complicated and cumbersome process. Each report is entered manually on an excel spreadsheet which was developed by the county auditor which then further distributes the fees and fines accordingly. The daily reports are over an inch thick to give you an idea of how many there are and I actually asked Rosa to bring you to show you what our staff does every day to get these fines distributed on the spreadsheets. The court is now awaiting -- I'm sorry.

We've asked the auditor to make changes in the spreadsheets which may help this problem. It won't fix it but it will help it. A management system that will be programmed to calculate the ever changing distributions would, of course, be an asset to our court. We can't afford it. Finally, some of the concerns in the report had to do with not changing passwords, not automatically disabling accounts after a period of activity and other computer-related issues. These are all due to the limited functionality of our very old servers and it's not possible for us to make the suggested changes. Obviously, servers cost money and, unfortunately, that's something we just don't have enough of.

So these are just a few examples of the limitations that prevent us from addressing many of the audit issues. If you have additional questions about the specifics of the audit, we're happy to address them and if there is something specific that you want to address, if you could point us to the particular section you're referencing, it would be helpful.

>> If I might just add a compensate. I certainly appreciate Judge Appel's comments. They have been forthcoming throughout this process but we felt this present a circumstance of accountability that the council needed to be aware of. It does have substantial resource problems. There are things that they can correct and they will. But you're seeing some instances for either lacks of a case management system and/or staffing and they're running up against a wall. On the other hand, you, for whom we work have the responsibility to be accountable to the public for the use and expenditure of public funds. And so the dilemma we hand over to you -- you get the big bucks to make these decisions. So, Rosa, did you have any questions?

>> Unless there are some questions.

>> Judge O'Malley?

>> I just want to relate sentiments to the court. Having gone through an audit, it is a very useful instrument to help a court really see those deficiencies that it needs to improve. No court is perfect I used to be on A & E and so I do remember reading through so many audits of so many courts and a lot of the problems that I saw. And our auditor is common with most courts. Cash-handling is a consistent problem across-the-board and so forth. So I appreciate the fact that you, like I did, for our court, take the audit to heart and to take it and, you know -- as an aid to help the court improve. And, again, this just goes to stress, you know, why we need to finish this CCMS project because courts like yours and mine are struggling and wasting money on these antiquated systems and if we could get through it, then it would be useful I know to you as well as many medium and small size courts. Good luck and thank you for taking this audit in the good stride that you have.  
Kim Turner?

>> Thank you, Chief. I first of all wanted to commend you for being so forthcoming and cooperative and correcting the issues that were raised in your audit but also to just mention that, you know, especially when John Judnick's group is going out what you're really having, I think, is a friendly audit and it's a constructive audit to alert you to areas where there are deficiencies in the area, for example, where you may have incorrect distributions when -- in finding out about those now, I don't know when your state controllers audit is scheduled.

>> Very soon.

>> Very soon. Okay. Well, the more you can try to remediate those issues to show that you're aware of them, you've addressed them -- first of all, it will stop the penalty clock from running for that period of time but it will also demonstrate, I think, good will to the auditors as they come in. When Mr. Judnick and his group came to say Marin a couple years ago they found our couple I.S. had turned off a priority distribution in our system unknown to us and so when we found out, we were able to actually go in at that point and fix the problem so that we're now just concluding our audit and we were able to stop that penalty clock from running for three additional years because we were able to take action

upon the recommendations of John's group. So that's just -- you know, just, hopefully, a helpful hint.

>> And just as a footnote to your comments, Kim, we have already notified the San Joaquin County auditor controller's office that have been because we do recognize that the county auditor controller does not let us make the changes. This is their spreadsheet. They've told us they're responsible. So if there are errors, we're going to hold them responsible. Also for any penalties.

>> Great. Judge Pines?

>> Mr. Judnick, I wanted to get your perspective in response to what the presiding judge has mentioned here. There are a number of problems that apparently haven't been corrected or can't be corrected because of a lack of resources or computer problems. Is that -- is that your view as well?

>> Yes.

>> Why this court out of -- we have 50 courts, why is this court having the problems as opposed to others?

>> This is not as unique to others. We pointed out similar situations where courts are dependent on the county on the CCMS to correct things or they have to deal with a programming issue where a programmer has to come in to correct things and they have to address that on a very timely basis and we have noted that in the reports. There are, though, in this particular case there are a number of issues where the court has corrected things already that we totally agree with but there are situations where we agree with the court that they're dependent upon either the court or somebody external to the court to correct the issue. And we'll have to wait for that to be corrected.

>> So some of these items just can't be corrected, is that what you're saying because of the EMS problems?

>> In this case and other as we've reported, that is correct, yes.

>> So how serious is this -- I mean, are we looking to a loss of funds because of this?

>> Well, the potential in many cases especially as we've pointed out in the revenue distribution issue, if those are not corrected, there are penalties of improper distribution which means that the state and/or cities and counties don't appropriately get their money on an accurate basis. If the money doesn't go to the state it's an 18% per annum penalty a year.

>> I realize we're going to be dealing with this court next month to solve some of these problems. Is this a solvable problem simply by providing more funds or are we looking at something that cannot be solved because of this computer problem?

>> I think it's a combination of things. Some will address with funding, some will address with the court doing some work-arounds but in this particular case, on the criminal side they've got a criminal case management system that's going to have to be replaced and they're going to have to continue with that because that's the county system. The court doesn't have the funds to buy a criminal case management system.

>> Are you using V3; is that right?

>> Civil side.

>> The civil side.

>> The civil side.

>> Uh-huh.

>> We're going to get more, I guess, at the next meeting he was just trying to understand the dimensions of the problems and what it takes to solve it.

>> Thank you, Judge Rosenberg.

>> Thank you, Chief. Mr. Judnick, just out of curiosity, in your years, how many trial court audits have you conducted approximately?

>> Counting the reviews, we've covered all the courts probably twice.

>> How many of those audits have resulted in no deficiencies?

>> None.

>> Audits are part of the process.

>> Yes, they are.

>> It's just part of the way we find out how we can do it better.

>> That's correct.

>> And to be specific on that, judge, you have changes over time, changes in supervisors who don't understand the current practice. The purpose of the audit is the second set of eyes to do it on a timely basis to be sure that the court is aware of changes. And so from that standpoint you always have issues on audits. There is -- I don't think there's one court where we have not had a revenue distribution issue during our cycle and it's to varying degrees. The cash issues always show up. And we point that out on a recurring

basis. And the reality is also that the court -- the courts in general have significantly improved over the last five years.

>> If I might add on a procedural note, the A & E committee is three years and it's working through process the council created to get audits on the public website by having them reviewed by a committee, then to the A & P and then on to the full council. And as we try to distinguish between those we send forward and urge you accept on your consent agenda and those where we think at least an issue should be surfaced very often in this instance we're not here to criticize the court but raise an issue that the court that does impact. So at least you have it in your material as you go forward and make decisions and that's what we view our role as providing you information and opportunity. So we will pick someone from time to time not to criticize or cause the court any more problems and it does drag them down here but rather for you to -- before you place something on the website, to understand what's going on as it works into the issues that you have to decide.

>> Thank you. Judge Wesley?

>> Thank you. Since this court will be coming back here, Mr. Judnick, when was the last report, last audit, done in this court? And were there things that were recommended for correction that could have been corrected that were not corrected?

>> The last audit was a course readiness in 2006. It was not a comprehensive but it did cover a number of areas. The trust account issue was not corrected, at that time. The court is now catching up but that was pointed out on the prior audit. The segregation duties issues was pointed out on the last audit. That was not corrected. And when I say, "not corrected," I better preface that with things change over time between audits you could have a change in personnel and a change in the business function of the Court. But in the number of cases that we pointed out, those -- the issues, when we indicate that there are repeat issues, those are specific to the last audit and I think there were five or six of those that were indicated on this audit.

>> John, would you just clarify for our public record -- there was an inquiry when the state controllers audit would occur. Would you tell us a little bit by why the state controller is now doing the auditing and what your role, if any, will be with IAS and the AOC in the trial courts?

>> The state controller has for the last number years, since I've been here the last 10 years, has done court revenue audits and continues to do those and those will continue to go on. Under the current statutes, the state controllers will be first party that can review the allowance to do the financial -- what I call the financial audits going forward starting next year with six trial courts and then going forward during the cycle which is strictly a financial audit and does not have operations such as cash controls and so on. We're still to negotiate that and the state bureau audits starting next year would be doing six pilot courts on the procurement on contracting side so we're in the transition year right now to determine the extent of state controllers or potentially BSA or department of finance,

which one of those would get chosen by the statute to the financial side and BSA to do the procurement and contracting going forward on a four-year cycle.

>> Thank you, Ron, did you have something?

>> Well, I appreciate the comments from presiding Judge Appel and Rosa. To be able to reprogram computers' legacy systems to be able to make changes to -- you know, to fine amounts and fee amounts and all those kinds of things is not unique to this court at all. As a matter of fact, we worked with the department of finance and the legislature and give them estimates of projections of revenue based on new fees or fines, we assume a delay of six months or so in terms of the ability to collect those because in this instance where it's a legacy system under the control of the county, the court has no ability to deal with that hopefully this is not something that John uncovered in the audit. This is something Rosa has given presentations on for significant -- for a long time. I've heard her give those reports that it's not possible for her to get those changes made in a timely way. So it's not unique to this court at all. And I saw court executives responding over here to that effect. It is a significant issue. In terms of delay of being able to get revenue and it's not unique and it's not something we're just learning from the court. I would say - I know we have with us today the administrative resources of the Court in two individuals who are here so I worry about what's happening back in Stockton today.

[Laughter]

>> You know, the fact that you have such limited resources and the ability to do things -- our regional administrator, Jody Patel has an excellent relationship with your court and we'll commit anything we can to assist you in addressing some of these issues, too.

>> Yes, we did bring our assistant presiding judge David Warner with us and our chief financial officer, Linda courtWright and I asked Linda because she worked very closely with John Judnick's group on a daily, weekly basis with this audit report over the last year and a half. So in case there were other specific questions that I didn't feel comfortable answering, I ask Linda to join us too.

>> David and Fritz.

>> Well, I just wanted to respond also to what Ron had mentioned. Certainly, many of us are beholden to the counties because we're stuck using the systems that have been in place for a long time. And it's not just one -- a challenge of people resources but fiscal. We get charged tens of thousands of dollars, if not hundreds of thousands of dollars just to program the increases in fines and the distributions every year and that has to be done before the first of the year or we face these penalties. So it is for a court that is short on funds, very taxing to try to comply with those changes that happen every year.

>> I just wanted to add to what Ron said and I wanted to commend Mr. Judnick and the court for what's going on with the audits. The state controller has been doing that for at least 37 years, since I've been around. But in recent years, that function has really fell off

with trial court unifications and all of the changes that happened. And a lot of attention wasn't paid by the -- by the AOC or anyone else to the tremendously complex calculations and distributions of court revenue. And when I was in L.A., more than ten years ago, the L.A. municipal court alone took in \$100 million a year. Not small -- small change and as I listen and read, there's a litany of -- a whole history of all of the kinds of scams and problems that I've seen over my career that involved in some instances serious money. And we need to really, really focus on this issue. And I commend you, Mr. Judnick, to keep -- keep going out there and -- courts -- courts want this service and need this she was and as Judge Rosenberg said, audits are part of it. And to have the audit -- have the auditor show up at the back door and you not know they're coming as the county auditors in L.A. used to do, they would just be at the door when the first person got there and the first thing they wanted to see was your safe. And they would do an inventory. So -- I mean, we need this service. Thank you.

>> If I can just -- we did -- I lugged all these here. I have to share them with you.

[Laughter]

>> This is just from our criminal and traffic case management system. This is just one day. One day's documentation of just that system. This is one day. So we have potentially 20 of these per month.

>> Manual?

>> This then gets turned into this, which is a month-end report. So this is just coming from the criminal and traffic system that is 25-plus years old. This is a monthly report -- I'll take off my little heart stickers.

[Laughter]

>> This is a monthly report from V3. This is for the month, this is all we have.

>> I think as emphasized by the court from an audit standpoint, just to echo what is being head, the calculations, revenue distribution calculations are complex, ever changing and are very difficult to keep up with. As I said earlier, there's been no court audit that we have done that has not had issues on revenue distribution. And they have significant fiscal impact. Hopefully it will assist the court to negotiate whatever penalties might incur with the county. But you can see this process that this court goes through. And when we talk about issues and resources, the court is devoting a significant amount of its resources to this work that they could use in other areas.

>> Thank you. Judge Baker?

>> I think the audit appears to be very thorough. I appreciate that. I'm encouraged by the response to it so far. I know we'll be revisiting a lot of these issues next time we meet

to consider San Joaquin's request for additional funding. If it's not premature, Chief, I'd move so it can be made public.

>> Judge Baker, Judge waters second. Any more discussion or comment.

>> I just had one follow-up question. I remain concerned about the predicament that the court's in because of the dependency on the county system. Have you come up with any short term solution or estimate or program that you could use in the interim because we're not sure what's going to happen with CCMS or when that's going to go online. Is there something else you're considering that could address this problem so that for the foreseeable future we don't have a repeat of these issues and the problems with revenue distribution?

>> I think the very short answer is no. There is nothing else for us to do. We have to have our staff to be as vigilant as they can be in their entries, obviously, but there is no possible way that we will be able to buy a case management system. None.

>> I'm talking about -- this is a fairly limited. We're talking about the --

>> No, it's not limited. It's a huge, huge issue which actually Rosa or Linda would be in a better position to explain. It's not just buying a new excel spreadsheet or something like that. It's an extremely complicated process.

>> If I can kind of clarify a little bit, the reason that we have to use an Excel Spreadsheet is because the case management system -- because it is very, very old technology is very limited in the capability and how it can be programmed to accommodate the very complex distributions that are required for all the fees and fines. It's not enough that someone pays a traffic ticket and your penalty assessments is collected, courthouse construction, if that ID, city gets their share. All the different buckets and everybody gets their little piece of that pie. Some of those distributions are distributed a second and third time. So it's very complicated process and it doesn't stop here at the case management system level. For us it does because we get one report there and we have to take those figures from the one report, dump it in the spreadsheet and let the spreadsheet continue to distribute so you'll get your final fees, fines and forfeiture report for the month.

>> Yes.

>> Judge Kauffman.

>> Justice Huffman, I was on the first A & E without your guidance.

>> I bet you missed me.

>> Nobody wants to be my buddy.

>> I'm grateful for that.



[Laughter]

>> The question I have is this -- I don't want to pick on San Joaquin, but basically is the A & E committee thought the court had an attitude problem that should be brought to the council for some reasons? Whatever they are? So now you bring it to the counsel's -- to the counsel for a review. What are our options we can say -- we accept the audit? What can we do other than just say, thank you very much and move on?

>> Well, from the standpoint of the audit process as you've outlined it in the council's process, it's ultimately for you to decide to accept the audit and put it on the website or it's actually -- you could send it back to the committee, to John Judnick, to the court for further examination. And the other thing it does it surfaces for you as we probably will at differing times during the year surface for you recurring issues that present policy questions such as the inability for them to function without a case management system the inability to buy one and the difficulty of taking limited resources and plowing them in to these areas only to do, you know, as best they can in the absence of the technology they need, you may have to make in your overall decisions on pursuing technology, pursuing resources, trying to find AOC work-arounds for courts. So I don't think this place -- this particular hearing is where you likely on any audit have some finite decisions other than accept the audit. But you may lead me lead to directions around the AOC or other places to come back and offer you solutions or approaches that might solve these problems which are system-wide problems. They just hit kind of in a heavy, perfect storm with San Joaquin which caused the committee to think, this needs to be brought to your attention. And that's how we think our role is.

At the end of the day officially, you accept it on the audit and put it on the website but now you know there's a set of problems and we're here to tell you this is not the only court that's going to have this problem.

>> Yeah.

>> And as we surface them --

>> San Joaquin has more than one problem, okay? And so the question is, what are we as a council do to say now that we've seen the problem and we see what's going on, what are we as a to say how do we resolve these problems? How do we deal with these problems not only from an individual case basis but a statewide basis that a problem?

>> I don't know how to answer it. But we're in a process where we're making it up. We're providing you information. We are no in a position as a committee to offer you solutions at this point because, A, we have not been charged with it. And, B, I don't know if we have the resources or EMTs to resolve that.

>> Part from the process of internal audit services is to attend regional meetings as I've done, to present the issues that are popping up on all the courts to provide that information on a regional basis and a statewide basis and giving indications to the court

areas that they need to correct prior to the audits. I've done that at the regional meetings. The audit report is going on to the website for all courts to see to get an occasion of the issues that are cropping up, again, equally for things that need to be corrected. We will have training sessions that will be coming up for the courts and so there are a lot of activities, internal audit services is doing in conjunction with other courts and other people to try to correct these issues. But as Justice Huffman indicated this is an audit report to provide you with the information indicating what is going on out in the court system.

>> I'm going to call and Edith, then Kim and then Alan.

>> Because of an absence of an updated computer system you have to do the manual spreadsheets. And of the risks that if they're not done correctly there can be significant penalties to the court. I have another concrete question, what kind of personal cost is being incurred to do these manually. Can you give me a sense how much staff time has to be spent putting together those multi-inch thick reports you showed us?

>> I'm going to guess and my CFO is here who can give me a more specific answer but my estimate and it probably takes our staff -- we probably have two or three people that work on the fee, fines and forfeiture reports. The daily reports have to be completed and then the month end. I'd say the month end for both systems probably takes about two weeks? A week and a half?

>> Kim?

>> Thank you, Chief. I just wanted to echo what John said. John and I have had a number of conversations in the last year. I was also formally on A & E and we have talked about the value of A & E to discuss circuits where the court does have control. The CCMS problem and the San Joaquin places may not be in the court's control, cash issues, procurement, procedures, there are a number of areas that I think common themes in many of the audit reports that we see that are really training issues and so John and I have talked about rather than just running throw a list of the top ten audit findings which we've done for many years at regional meetings and so forth, but to actually spend some time and focus on a particular issue like cash handling or segregation of duties and spend that time really talking with CEOs so take their learning back to the courts and have an opportunity to walk around and see, well, what's happening in my court in the area of segregation of duties and hopefully get into a more preventive posture with correcting these issues which do not take a lot of additional resources they're just simply making sure that their practices and procedures are functioning according to HOIL and general accountable of practices.

>> Thank you.

>> Mr. Judnick confirms something I had a sense of reading all the receipts since I got on the council. It seems like everybody has problems with distribution. And you pretty much confirmed that. And yet we're running right past that. I think there's a

huge message here that the distribution system needs to be fix. If all of us can't do it right, it's not us. It's the distribution formula and I think we need somehow to convey that to the legislature or ask our traffic committee or criminal committee saying we got to make this human beings can do. We're not doing it right. And I don't think anybody. We found a mistake on ourselves during an audit and we have a very good computer system. It's too complicated and it needs to be cleaned up and that's a message out of this that we need to do something about and not just walk past.

>> Did I here a we are?

>> I believe we are looking at that. We have a task force looking at revenue collection and distribution. And it is complex and we have members from the legislature, from the cities from the -- the CEOs from around the state that are all looking at it and saying, my God, this is complex.

[Laughter]

>> And the same thing struck me, when I was looking at this, the same thing struck me if everybody is having a problem with this, then the problem is not with everybody. It's with the distribution system. And so we really -- we are looking at it and we will be making recommendations to the council.

>> Thank you, I understand, Judge O'Malley, you're chair of that?

>> Yes, she is.

[Laughter]

>> And Judge Wesley is my co-chair.

[Laughter]

>> We'll be anxiously awaiting that report. Judge Rosenberg?

>> Well, the other solution, of course, is to replace the auditors.

[Laughter]

>> You know, the old coal miners used to have a canary located at the mouth of the cave. And when the canary fell over dead, that was an indication that there was a problem, gas or some other problem. I think to some extent, San Joaquin is the canary. I hope you're not falling over dead yet.

[Laughter]

>> But it's clear, you know, we're going to see more and more of this issue popping up. I'm sure Mr. Judnick will confirm that, that we have these ancient systems, case

management systems, you know, the court can't afford to get a new system at this time and we have to keep driving forward to get a statewide case management system in place, which will, I think, help greatly to alleviate many of these problems.

>> Thank you. And Ron, you had something to add?

>> No.

>> Judge Herman?

>> I would just say to carry your analogy further. Not that I like dead canaries. There really is just a flock. It's not just one canary. You can just go down the list on those counties that are faced with either the expense of an interim system or struggling with a legacy system that's failing. This is poster child stuff.

>> Yeah.

>> The question -- the motion has been made and seconded. Without further discussion, all in favor of accepting the report and posting it on the website say aye.

>> Aye.

>> Any opposed? The matter carries. Thank you for this background and information and thank you, Justice Huffman bringing one of the systemic issues that A & E has kept an eye out and serving its purpose and we will see you in December. Thank you.

>> Thank you.

>> Thank you. Item K an nonaction item. This is the National Council of the CCPOR and to present that is Ms. Anna Brannen deputy secretary for policy, California Technology Agency and thank you for being here. Mark Moore, information service staff.

>> Thank you, Chief Justice. And thank you members of the Judicial Council for allowing me to present to you today. It's a great experience to be here. And I have to tell you it's very humbling to be before such a distinguished group. I'm here today to recognize you for two awards you've received for a computer system. The California courts protective order registry. This was a system where it was created as a result of a recommendation that you received from your domestic violence task force. A few months ago, this system received an award from the center for digital government as one of the best of California 2011 awards.

Also, this month the national association of state chief information officers also honored your system. The association received hundreds of award nominations for I.T. projects from all the 50 states and selected a winner and two finalists for every category. The association recognizes those information technology initiatives in America. That exemplify best practices, are innovative and provide cost-effective services to Americans. This month at the association's annual conference, the judicial council, the administrative

office of the courts was recognized as one of two finalists in the data information and knowledge management category. You are, in fact, the only court in the United States that received an award this year.

As you know, this system created a statewide repository for restraining in protective orders, it bridged communication gaps and it improved interagency cooperation. It was your vision and leadership that improved safety for victims of crime as well as California's peace officers in the field and we in the executive branch want to thank you.

On behalf of the California technology agency and the administration, I'm honored to present you the finalist certificate for outstanding project and exemplary service to the people of California. We are so fortunate in the executive branch to have you all as our partners. Thank you.

>> Thank you.

[Applause]

>> Just a short word for the Chief, if that's okay.

>> Of course.

>> A very inadequate proxy for the many, many people who should be here to accept this award. This was a collaborative effort. I know that's becoming a cliché these days but we don't do technology for technology's sake. And technology -- when it's successful is the result of a collaboration. In this case, in addition to the council and its domestic violence task force which started this effort, the 22 courts that are on CCPOR today, their counties, their county's I.T., their law enforcement all contributed to the success. Many departments and divisions in the AOC. Obviously, information services division was important to that prospect but so was -- were many others including the center for family's children and the court and, of course, our executive sponsor through this whole thing, miss Christine Patton ensured we made it successful. One thing that the council should be aware of it was done quickly and very incomprehensive for one principal reason, we and ISD used many components to build this application from CCMS. So from V4, the application which we're ready to accept, we pulled pieces out of that while it was still in development, reused those components and were able to deliver this very quickly. So I'm very happy that technology is part of an answer to protect the vulnerable citizens of California that need the courts for protection. So thank you. On behalf of all of them.

[Applause]

>> I just want to say that I'm -- it's a marvel that we have talented people who have a vision for us and to share information to the benefit of Californians and the CCPOR registry is -- if you haven't seen it or are not familiar with it, it's an awesome tool for our judges to protect families and children and victims of domestic violence. And I thank Ms. Brannen from the California technology agency to recognize how the judicial branch

does try to think outside of the box to get to our remedies. And we mightily strive to find these kinds of remedies and a point of privilege and it's the judicial branch who has the ability to move and to act quickly and to come up with this idea and try to find what we famously call work-arounds to be successful. So I thank you for acknowledging us and the -- truly the grandeur goes to our I.S. division which I know is moving a bunch of dinosaurs down a road.

[Laughter]

>> Thank you.

>> Being one of those --

[Laughter]

>> I want to thank Ms. Brannen for coming today and presenting the award. And thank Mark Dusman and, of course, Christine for guiding the efforts all the way through. I can't think of a better real example of what a statewide system provides in terms of our ability to work with our justice system partners and be able to provide information to law enforcement in their cars to judges in other counties and to other agencies that need information that is important. This is a lifesaver. This CCPOR a lifesaver and it's something we can do more of and I'm just very proud of you, Mark, and all of your team.

>> I just want to add that in working with this multidivisional team within the AOC and all of the courts and the sheriffs and the counties and everyone else we worked with, everyone was pulling for what really got me not just on the technical part that needed to be one. It came from everyone's heart that this is going to save lives. This is going to really impact the people, the children, you know, men and women in California. And everyone we worked for that was the goal and that was so fantastic to work with those people. I also want to acknowledge Kim Turner to my life who is from Marin. They were the first court that was on the system and they acted as Guinea pigs as they often do and I want to commend them for taking that leap. And it is a little bit of a risk to go out and do that, but it's well worth it and it was very fulfilling role that I played just to bring everyone together to make this project come to fruition.

>> Thank you. Thank you all. That concludes item K. At this time I'm going to call it to be -- I think that's exactly 11:00 and we'll stand in recess for approximately 15 minutes. And reconvene at 11:15 to take up item L, California Case Management System.

>> Well, before we start on Item L, I know Ron has something to say regarding our last agenda item K. Ron...

>> Well, thank you, Chief, and kudos for CCPOR I think we spread around nicely with a couple of exceptions. One-- it came out of Orange County. I mean, that was the brain child was Orange County Superior Court, so Alan Carlson and Alan Slater, Snorri Ogata were instrumental in that, and it was really them showing their system to Justice Kay who

is the chair of our Domestic Violence Task Force that really generated this statewide system and Justice Kay insisting that this is going to happen and how important it was, so thanks to Orange County Superior Court and to Justice Kay.

>> Thank you, Alan. Next is Item L, the California Court Case Management System and we have presenting Justice Bruiniers and also Judge Herman and Mark Moore. Thank you.

>> Good morning, Chief, members of the Council. CCMS is a boondoggle. CCMS is a fiasco.

[laughter]

>> These are the statements that have been made by some of our colleagues and eagerly repeated in the media. After all, government waste is always a good story. I don't think I've ever seen an article in any of the media about CCMS that doesn't include the words, "troubled" or "beleaguered" or some other similar adjective. The problem is that while those claims may fit some agendas, they simply don't fit the facts. The Oxford Dictionary defines a boondoggle as a "trivial, useless or unnecessary undertaking, a wasteful expenditure." A fiasco is defined as "an ignominious failure." There's nothing trivial, useless or unnecessary about CCMS. We started this project with both executive and legislative urging because we were and as you heard this morning still are spending millions of dollars each year across the branch to support and maintain a multitude of aging and failing case management systems that do not and cannot meet the needs of our trial courts. You could not have heard a better example than you heard the situation in San Joaquin County this morning. The majority of our systems are the legacy of an era prior to state funding and prior to trial court consolidation. We still have over 70 different case management systems with about 130 different variations. Most courts still have different case management systems for different case types. Our systems do not communicate with each other, even within a court, much less between courts, and they certainly do not communicate with our justice partners provide interaction to the public. They tie us to paper based case processing. Almost none provide for electronic filing. CCMS will dramatically change that. CCMS includes electronic filing, integration with justice partners, electronic calendars, self-service case inquiries, self-service payments and will revolutionize the way we do business. The system will improve the processing of cases and transform court operations with a grant wide with electronic document management systems.

>> They have contributed or pledged close to a billion dollars to these efforts. Dr. Patrick son who established the foundation with his personal wealth is an immigrant and self-made billionaire that can only accomplish what he has been able to accomplish in a country like this and appreciates what CCMS can provide for the citizens of this state. The foundation is offered contributions of cash, technical expertise and technology aspects foresee employment and the foundation is committed to helping us commit deployment and to Ventura, but also, to include the Fresno Superior Court and help us retire the V2 legacy criminal and traffic systems in Fresno with the results savings of approximately \$6 million a year. We're also extremely gratified that the State Bar, has

recognized the importance to our Justice system of implements CCMS and expressed its interest in assisting and supporting this effort. Our earlier adopter Courts while anxious about their own constrained resources are also anxious to move forward and to, we have Steve here and Mike planet present. I'm going to ask in a moment to simply tell you what they are prepared to do and what CCMS means to their Courts. The local Justice partners have made financial commitments and resource commitments to this project and are now waiting to see if we're prepared to meet our commitments. These are the essential and critical first steps needed to commit our readiness and set up systems and establish our processes that we need to do so. I know that some members of the Council have heard from Judge Crandall and Mr. Planet before, but there are some here on the Council that have not. I would ask Judge Crandall if he could step forward for a moment. We've had that multiple Courts have had a critical need foresee see. We've had to replace systems in Nevada county last year, we know that Sonoma county had to replace their systems in the last year. And, Judge Crandall represents one of the Courts with immediate and critical need.

>> Thank you Justice Bruiniers. Good morning, Chief, members of the Council. I know what you're thinking here he goes again he is going to repeat what he said in July, but I'm not going to actually. A couple of footnotes before I get to the main thing I want to say, the auditing issue has particular significance to us because we made what amounted to a \$200,000 mistake with some of those local revenues and not getting them in the right bucket. You will probably see us back up here sometime in the next couple of months seeing if we can get it replenished because it was an awful mistake. It was inadvertent and we got penalized heavily. With CCMS it wouldn't have happened. Also, I think that technology award that you just saw, speaks volumes about why it is practically important and we need it. So, let me go, as I told you in July we have a very unreliable system. It costs about \$1 million a year to operate. The model we're going to implement if you let us of CCMS's very simple and cost effective. We're not going to do data conversion. It's a standard configuration and it's a model most importantly that is easily replicated because our Courts in terms of filings and what not, represents the same numbers as no more than half of the Courts in the state. What I didn't tell you in July, or if I did I didn't say it loudly enough is how enthusiastic our staff is even in these budget times. They are counting on this. Our staff has tested it. I have to tell you, it really isn't about the Judges so much as it is about staff utilization and how much more it helps them do their job. And it is also about what I will call Court customers. So our staff is very enthusiastic even though we're in really tough times which I will get to in a second. The other thing I want to highlight is our Justice partners. I was very concerned in July that they would walk away, well they haven't walked away, but I'm been doing a tap dance since July keeping them engaged so for that matter is Chris and Ron. They have been down there, we have been over trying to convince them to stay at the table and they are still there. They won't be there forever. And timing is everything. We have got the sheriff probation, and all the DA in particular, big proponents of this system it's going to be fully integrated. We can be a model for you if you let us. We're ready to rock n' roll, but timing is everything. They will not stay at the table if we don't get going. That's that story.



But, when I was coming up on the plane, Justice Bruiniers talked about some things and I was catching up on my daily journals and I came across the article that said, critics say that it is unnecessary and ineffective. That I think it was in the, I don't know which daily journal I was two weeks behind, but it's there. And um, I think, and I want to emphasize, I can't emphasize enough that this issue in my view is a lot larger than that. We need it. There is no question about that. I am also, from a Court that can talk about the pain of shuttering a courthouse and furloughing employees because I've had to do that this year. One of the hardest things I've had to do. Letting go employees is the worst. Furloughing is the second worse and I'm had to do that. I don't think the two are fundamentally inconsistent. It's not all about doors or computers. Here's what I have to say, like it or not we're in the age of information. It's the age we live in. People, blog, they text, they tweet. You know if you want to stay connected with your kids in college or at home you have to learn Facebook or something analogous to that. So, so, so the public is doing this all over the place. We are asking for the public's support, you know for our budget, for a variety of reasons. We want the public to stay connected with the Judicial Branch. And I think it's all right to do that. I'm going to give you a little bob Dylan okay and you're going to say what on earth does bob Dylan have to do with CCMS. Let me try and see if it makes any sense. I'm not going to sing don't worry.

[Laughter]

>> Bob doesn't sing either so --

[Laughter]

>> I hope he didn't hear that, but yeah you're right.

>> Would we be able to understand you?

>> Not if I use my growly voice. Okay. So here's a little Dylan. Come gather around people wherever you roam and admits the Waters around you have grown. Except that soon you will be drenched to the bone. If your time to you is worth saving you better start swimming or you will sink like a stone for the times they are a changing. My point is, if we don't adapt and quickly move with the changing times, the Judicial system in my view is in danger of becoming I will quote the chief a dinosaur all right. Or, you could say to use legal ease irrelevant so don't let it happen. Thank you.

[Applause]

[Laughter]

>> He was supposed to bat cleanup.

>> Did you bring your guitar?

>> I did not.

[Laughter]

>> Morning, Chief, members of the Council, great to be back in this room. Um, well I want to let you know the Ventura Superior Court strongly supports deployment of CCMS. We have been operating on that system now almost five years. In addition, we have dedicated staff to participate in the CCMS design and development for the past several years. Our Courts also run 20 or so Courts that have deployed as well. Judge Glenn wheezer demonstrated provided countless to Judges and lawyers and anybody that will invite them. We have seen it and believe it is the case management system of the future. Obviously the budget picture is of concern to our Court. Both for the current fiscal year and the outlying years. The uncertainty of the budget and financial resources are the major risk to successfully deploy CCMS. Understanding those risks the Court will continue to work with the Council and the project management team to work through the issues necessary to undertake the deployment to the best of our ability. That would be our commitment to the project. Thank you for the opportunity to come here it is great to see everybody. Thank you.

[Applause]

>> Thank you. On behalf of Judge Crandall's comment I recall I was at a national Court technology conference and Mary McQueen is the director of the national center for state Courts shared a comment that how slow Courts are to adopt or implement the technology tools that modern business uses and, she noted that you know, if John Adams walked into a courthouse today, it wouldn't be all that different than it was when he was practicing law a couple hundred years ago. And, maybe there is, in one way maybe there is something reassuring about that, but it also is fairly sad commentary on how far we have to go to bring our Courts into the 21st century. We recognize that every resource in the branch is scarce at the moment. We recognize that every dollar we spend is subject to legitimate scrutiny.

But, as I said earlier, the question is not whether we spend money on case management systems, the question is how we spend that money on case management systems and what benefit we derive as a branch from that. We therefore are asking the Council to authorize us to enter into a letter of intent with the foundation and with the State Bar, and I believe Council members now have draft copies of the letter of intent that will allow us to do a period of due diligence that will allow us to move forward with our preparation for deployment. And, hopefully return to the Council in about 90 days with a definitive agreement for your consideration that would provide for timely early adopter deployment at dramatically reduced cost to the branch, and which will establish the critical foundation for use of CCMS across the branch. Thank you.

>> Do we have any questions?

>> Yes.

>> I want to say, preliminarily that I for one am supportive of proceeding with this letter of intent. After hearing of this debate for the year or so I have been on the Council and on its Committees it seems to me among that's that are willingly to engage in the honest assessment of the need of CCMS agree we need it and it works. Frankly those not willing to engage in that intellectually honest discussion are in my view using CCMS to pursue an agenda both as to CCMS and generally not in the best interest of people of California. But, at this time, it certainly appears to me that, the Judicial Branch alone cannot afford to do this. And so, to the extent we're able to reach out, either to the State Bar, um, or to the foundation for additional help I'm heartedly in favor of that because we have to get this system in place.

>> Thank you, Justice.

>> You all heard from me yesterday about my interest in the pursuing the grant and our need to begin due diligence. I just want to comment about what Mike planet wanted to say. Our Court has been working with Ventura to establish the filing piece of this. The Court of Appeal can't do it without, first having E filing at the Superior Court level. And for the Appellate Courts it saves time. It saves money, it provides a benefit to the Justices to the research attorneys and, most importantly, to the lawyers, the Litigants and the people that we serve. It provides access to the Court that is not available in any other means. I would just, support Justice hull in going forward with this and just add that piece to it.

>> Thank you.

>> You know, just on behalf of the Internal Committee. First of all I want to thank the support of the Ventura Court and V3 and resources including having Judge, he came to our Court did a demonstration of V4. Many of our Judges are analog Judges in the digital hell so they were incredibly impressed and the first question and Ron will verify this out of their mouth was when can get this system? The only issue I have frankly Judge Crandall and Mike are relative to, your two Courts is the fact that if both of you are up on V4 that sort of makes my humble fishing village on the central coast the road kill on the information superhighway. But, obviously a needed system. You can't speak anymore eloquently than the Courts that have come before the Council today. You know, under the leadership of the chief, our mantra, our commitment is to keep the courthouse doors open. As Judge Crandall said, in the 21st century we cannot use 20th century technology. We cannot keep the courthouse doors open without the case management systems. We really are at one of those crossroads. A door has opened to us. We have a remarkable confluence of vision because this really is about vision. It's really about the long-term future of the branch and our ability to serve the public and to serve the stakeholders and the users of our Court system. The vision of the doctor who immediately saw there was a parallel between the need of healthcare providers and patients to have realtime access to healthcare information. Instead of, having an accident out of state, and having to get mail x-rays and medical histories, the parallel with the need for trial Judges. The need for Litigants and the need for lawyers and stakeholders to have immediate access to statewide case information for the protection of families and the protection of children.

That vision is parallel and he is willing to put his money where his mouth is in order to help us to go forward with this effort. There is the confluence of the vision with State Bar. An institution that I have special affection for.

[Laughter]

>> Senator Dunn who was a wonderful ally and John our new State Bar President standing in the shoes of more than 225,000 lawyers, the largest State Bar in the United States. Those lawyers who come before us and who represent children, and who represent families, and um, who are in legal services and assistant self-help litigants, those lawyers are more than ready for this system. Those of us that practiced in federal Court before we got on the bench we had the pacer program which, 15 years ago which gave us E access and central district has had E filing for years. The final of course, confluence of vision is the vision of this branch. I mean I stood down stairs in the great hall when the Justice ten years ago, talked about the future of the branch, and, the need and necessity to move forward with the statewide case management system. And, so we have to, admire and recognize that vision, the vision of legislatures, the vision of Governors, the vision of Chin. The vision of C tack that the Justice has Vice Chaired for many years in terms of moving this project forward. The inside vision of the branch, Mark Moore, um, information services, and, the project management office. The Courts that have contributed in terms of V3 and V2, all of the branch energy and vision to move this project forward. We are at this crossroads now and it seems to me, that this is remarkable opportunity, a remarkable open door, an open door that will in the future keep our Courts open and available, accessible, to our public and stakeholders.

>> And, Senator Dunn is here with us this morning and can speak on behalf of the bar and the bar's support for this project.

>> Thank you, Justice. I think it's still morning good morning everyone. I do want to give a special thanks to many of the members around today that actually have been involved over their careers with the State Bar. I won't name everybody, but in particular, of course, Judge Herman that just spoke and most recently Angela Davis who came right from our board to the Council. It's great to see the continued interaction between the two. It is my privilege just to make a few brief comments on behalf of our President John streeter and our full board. I will confess I was expecting not to say anything today, and sit quietly in the audience. But I will just repeat basically what I said quickly yesterday. The State Bar is honored to be part of this process and hopefully, to reach after the next 12 weeks a formal agreement in which it can be a partner in this collaboration to ensure the deployment of the case management system in our California Court system. As I mentioned yesterday, the primary and overwhelming driving force of our President and our board, and I hope I'm not outing her on this, the position taken when she was still on the board, by Angela Davis, when addressing the question of whether the State Bar and its governing body supports the deployment of the case management system throughout California the answer was an overwhelming yes and as I mentioned yesterday, frankly, the discussion quickly turned to a why aren't we already there? And I think for the

Council, the reasons for the legal communities overwhelming support are very clear. In this day and age to practice law when an LA lawyer no longer just has cases in LA, but throughout Southern California, but probably throughout the state, whether that lawyer is a solo practitioner to a partner in a major international law firm the same is true. One cannot effectively and efficiently represent their clients without having a case management system in our state judiciary. It just can't be done in today's world. And it was our President and our board that said, we want to now raise our voice to stress to all who will listen, the importance of deploying a case management system in the state judiciary as quickly as possible. Secondly, assuming success in the 12 week due diligence period, the bar has State Bar has a possibility of a case management system in its bar Court as well as other potential IT upgrades. We look forward to those discussions going forward assuming by the approval of the State Bar next week. Thank you forgiving me the unexpected opportunity to comment today.

>> I believe there were comments.

>> This is a question for Justice Bruiniers. On the agenda this appears as approval to the two early adopter Courts, but we have this sort of late breaking development about the funding. I have certainly whole heartedly support the two implementation of the two early adopter Courts, but, I see these issues as two separate issues and, I'm assuming you do too and that they would be -- two separate motions essentially.

>> We have one focus this morning Judge Baker because what we were prepared to come it the Council with were specific recommendations and alternative scenarios assuming we were going to rely upon branch funds and the Deloitte service. It was to keep us within the existing budget restraints that would not require additional commitments of funds. And those certainly, were focused on the two early adopter Courts, because, that was the maximum scope of what we thought we could do, and do successfully. As Justice Hull noted our ability to do this alone, is, certainly, going to be subject to question. The resources we have are so constrained, that, even if we can get started within the current fiscal year we still don't know what we're going to face in the coming year. So, our recommendation instead, because, of the uncertainties and risks we would otherwise face, is that we pursue the grant proposal because, this will dramatically lower the cost and risks of doing this and will allow us in fact, to bring a third Court in, the Fresno Court into this picture. And that, that makes far more sense. It is a collaborative effort with this foundation, with the bar. We think that has much greater promise and, both the short and long-term. And, so, we are asking action for the Council this morning is on the grant proposal, we would in either event, be continuing to move forward again within the existing budget constraints with no additional funds -- simply what we currently have. And that would be done concurrently with the due diligence period, the 12 week due diligence period. Either move forward with the grant proposal assuming the Council finds the agreement acceptable. That would be our primarily option. Should the Council for any reason find that not acceptable we would fall back to the alternative proposals and present those to the Council at that time and the Council would have to decide whether that is a commitment that we're prepared to make. I would also say that even with going forward with this grant proposal, it will require a commitment from the Council and from

the branch, that we are prepared to move forward and to do what I think is absolutely critical, with the future of the branch.

>> That makes sense. Thanks for the clarification.

>> Judge Wesley, then Judge Pines.

>> I think Judge Baker for clarification because I had the same question. My question is this we're not really approving a grant proposal, we're, what you're asking us to approve is a letter of intent, where no party has any obligation until the 12 weeks of discussions regarding exchanges, planning and due diligence. Tell me whether this doctor has any litigation before the Courts that might cause a problem. Until that is completed you're not asking us to vote on anything.

>> We're not asking you to approve anything other than proceeding with the letter of intent with the understanding in the meantime we would continue to do our preparatory activities, but do not proceed with deployment under any alternative until this Council authorizes us to do so.

>> Thank you Judge Pines.

>> Just to follow-up as I understand the only action item is approval of this letter of intent. It's clear to all of us this is a nonbinding letter of intent.

>> That's absolutely correct.

>> I see the language here it says no party has any obligation to any other party by virtue of executing this letter other than to engage in discussion, information exchange and planning activities during the 12 week period. This is what we discussed yesterday. Just expresses our interest in this proposal, but doesn't obligate anything. That's my understanding.

>> The decision point come when is we come back to this Council with a definitive agreement assuming we can arrive at one that is acceptable to all parties and we then come back with that agreement, for either acceptance or rejection.

>> A couple of thoughts this is a big undertaking to really do the due diligence and get into meaty discussions. I'm just interested what did you envision as the team that is representing um, the Judicial Council in this process. I gather the bar is going to be the table. We're going to have someone at the table. They should be there.

>> Some idea of how this is going to be managed. Involvement of members of the Council. You get somebody that goes along in terms of ideas. Out of the blue the agreement on us.

>> Technical staff and, will continue to do so as the administrative level, I have been involved, Judge Herman has more recently been involved. Not only included bar

leadership. Judge Herman and I attended, but Justice Miller, his Chair, not only Justice Advisory Committee, Justice Ashmann-Gerst was there, so we had members from the Council who were present at the meeting continue to be involved, Ronald Overholt owe as the administrative director is involved in these discussions.

>> Judge Pines the internal Committee, will be involved throughout the process. Do you have sort of a lead group on behalf of the Council?

>> The CCMS internal Committee.

>> I gather our lawyers are going to be involved in this.

>> We have an idea of what is going to go on in the next 90 days.

>> I believe we have meeting near term in terms of what the time line is going to look like, what the point, the hit points are going to be in terms of that time line and the approach of the due diligence.

>> I don't know whether this 12 week period a successful product will emerge, but, it certainly is worth that effort and, I'm very hopeful a successful product will emerge after the 12 weeks of due diligence. I think the public in general wants government to be creative and innovative and think outside of the box particularly in these difficult times. This sort of I use the term loosely venture or partnership, is definitely thinking outside ever the box. It is creative. It is innovative. And speaking as a Trial Court Judge and a presiding Judge, I think the overwhelming majority of Trial Court Judges understand and recognize, that we must start living in the 21st century. I think even John Adams would recognize it. And that we have to move forward and develop a uniform case management system. So, um, I hope and trust the Council will support this due diligence period and I hope this is a fine product at the end of it.

>> Justice Miller then Judge Moss then Justice Ashmann-Gerst.

>> I would like to make a motion at this time that the Council authorize the interim administrative to sign the letter of intent that all of those decisions and authorizations which the Council made at the July meeting stay in tact. Involving the continuing expenditures of the \$14.2 million in the manner of which you have indicated and the retention of the \$16 million and its current status as not being available during this interim time. That um, the Council and all of the appropriate staff will conduct their due diligence during this 12 week period and that then you will return back to us with a final information with regards to your conclusions and recommendations with alternatives and options.

>> Second.

>> Second by Edith Matthai and who else seconded? Judge Herman and Judge Moss.

>> I was going to make the same motion that's all.

>> A point of clarification if that is correct?

>> I will have to check my pocketbook.

>> Check your Rosenberg rule, what about that \$16 million?

>> The \$16 million of the service credit will not be available during this time as we indicated in July.

>> Okay.

>> Justice Ashmann-Gerst.

>> Just to clarify for anyone who was questioned this part of the due diligence during this period will be to check in, be sure that there are no conflicts with the Court system.

>> Thank you.

>> I think I said Judge Kim, I know were you interested?

>> I wanted to give Judge some assurances the CCMS internal Committee comprised the Judicial Council members I will speak for them, we take that responsibility very seriously and certainly, expect to have regular check in during the due diligence period and to help in whatever way we can to ensure that the process is full and comprehensive and, gives us a very very good report after the 12 weeks. So, the notion that we would go forward and you know 90 days later would just get a report I think is, not at all what I would see happening over the course of the next 90 days. I know I can't recall how many people are on that Committee, maybe 7 or 8 Council members, but Judge Herman Chairs it and we intend to be extremely involved.

>> Thank you. Judge Friedman.

>> What besides checking on conflicts of interest would be within the scope of the due diligence that we will be embarking on?

>> So there is an awful lot of technical aspects of the proposal that we have to vet because they are going to provide through the foundation, access to technical resources, data center hosting resources, the national rail network, as well as project management. And various responsibilities. So, it's really, a full in depth review of all aspects of the engagement and we will as you pointed out will be coming out with all of the project related documentation, project charter. We would be standing up in Executive Committee. We would be coming up with what the success criteria of the project was, what the scope was. We have an awful lot of information on two of the three Courts, from free deployment activities we'll be doing similar types of activities around Fresno Court coming up with detailed project plans, detailed budgets not only for the first year,



but for the remaining years required to get to completion so everybody understands what is going to be required to be successful at the end of that. And also, key metrics to measure the success against criteria after we complete. So, we should become and this is where the internal Committees thoughts are going to be very helpful. We need to decide what success means before we start. So that when we measure this as the first three Courts how do we move together either in a greater partnership, by ourselves, or move forward with CCMS at all. That's everything we'll be doing in those 12 weeks.

>> And just, just if I may chief, just, on the other side of the coin of course, is the legal transactional pieces. Including how we protect our intellectual property, the basic punch list from a legal perspective in terms of documentation, the documentation go forward and as far as, CCMS internal involvement, Monday or Tuesday I will be sending out availability so we can meet on at least a biweekly basis to start out with and probably in shorter periods as we approach the 90 days. I have found as Chair of the Committee it has been extremely useful to participate in the weekly Deloitte briefings on the progress of development in the project so I think to keep Judge Pines, the internal Committee on a continuous basis in contact with the progress of due diligence is important.

>> Alan Carlson.

>> I'm waffling, right now it says here that three parties are the State Bar, the foundation and the AOC. I'm thinking it should say the judiciary or the Judicial Council not the AOC. It's a quibble, but, it's there a couple places in the document.

>> I don't mind taking that as an amendment to my motion that we amend that.

>> As an addition?

>> The Judicial Council and the AOC?

>> I think it could just,

>> The Judicial Council. Yeah.

>> The AOC is just our staff. A good staff, but they are just staff.

[Laughter]

>> That is delete online one AOC. Judicial Council.

>> Then Judge Pines I just wanted to follow-up on what Judge Herman indicated that we already have been working with our own staff through our legal office and we intend as I understand it to consult with outside legal Council also.

>> Very good.

>> Okay.

>> Any other constitution on the matter?

>> Do we have a legal opinion? Here's what troubles me. The doctor has a lot of different entities. Has had litigation at least I know because I got an email on my Court as a member of the Council I haven't done a due diligence on my Court to determine if any of his companies have litigation before my Court. I'm still a Judge how then do I, sign, sign onto a letter of intent, as a member of the Council, to negotiate with somebody that may have a conflict of interest with me?

>> Because I have not done a due diligence on my Court. I don't know all of these and related companies and I would want to know that before, I mean, as an ethical obligation as a Judge, I cannot have a conflict of interest. And I don't know, I think the due diligence, that we're talking about, later, doesn't answer my question for today.

>> But you're not the Judge in that case.

>> I may not be the Judge in the case, but I'm the assistant residing Judge in the case which is a problem for me.

>> Can I ask Mary Roberts to help you in that.

>> I'm sorry I was actually talking not listening 100%. First with regard to the parties to this particular letter of intent it would be my recommendation it remains as is with the staff agency to the Judicial Council we be the party to be involved in this collaborative effort with the State Bar and foundation because, the outcome of that process will be proposals that will come back to you as the Council I think that will be the preferred approach. I also think by doing it that way, that would provide a good step back from the actual involvement, in the discussions and the negotiations and the development of the plan, that you as members of the Council ought not to be involved in and that may help address the concerns raised about Judicial officers involvement.

>> Thank you.

>> Can I just remove that amendment?

>> That was a friendly amendment.

>> Thank you.

>> Judge Wesley relayed the question I have been thinking about as we have listened to this proposal that some of us only learned about yesterday. That is that even though it's a foundation we'll be making the grant or potentially will be making the grant, the doctor is involved in a heavy regulated industry and an industry not frequently in litigation. I'm concerned and part of this due diligence inquiry I would like briefing from general Council as to what the implications are going forward and how, the judiciary and the counsel are protected from the hypotheticals we can think of right now by taking this

kind of a grand from a foundation that is, so closely related to entities that are involved in litigation and are heavily regulated.

>> Chief Justice.

>> Other comments or hands raised?

>> Well, in response to that --

>> Let me call on Mary Roberts.

>> Just in response to the comments that analysis would be part of what would come back to the Council at the end of the 12 week period.

>> Judge Pines.

>> That's what I was going to say. That's the whole idea is the due diligence is see what problems there are what conflicts. Maybe this is a nonstarter, but we don't know now. Sure something that will be developed through the process.

>> There is a motion on the table. Been seconded.

>> Called to question.

>> Without further comment I hear a call to question all in favor, aye.

>> Opposed?

>> Abstain.

>> One abstention. Matter passes.

>> I also would like to thank Judge Crandall and Michael planet as well as Justice Bruiniers, Judge Herman, Mark Moore and senator dun for presenting and being here today. Thank you. Okay I'm thinking we're going to take lunch right? Because the others will take a while. We're going to stand in recess for lunch here at 12:15 it is a 30 minute lunch. We'll see you back here to take over our last two items at 12:45. Thank you.

>> This is item M, Trial Court allocations the criteria and process for supplemental funding. We welcome Judge Rosenberg, David Yamasaki and Zlatko Theodorovic.

[Laughter]

>> Did I say that right?

>> You did eventually.

[Laughter]

>> Thank you. I'm going to get better and bet faster I say it more often.

>> Who is the third guy?

>> Thank you, Chief. Yes, so back on August 25, Judicial Council directed staff to work with Trial Court representatives to reexamine the criteria and process for supplemental funding. We took together a group of six representatives from the Judge's group and six from Court executives, to really work with the experts in the field to really, help us frame what we need to do in terms of providing you good, process and criteria to consider any urgent needs funding. So Judge Rosenberg and David Yamasaki here to describe their participation and what they thought about the process and how we think it was a good process to come to good recommendations.

>> Zlatko Theodorovic is going to present the results, but I wanted to make a brief comment on process. I know that David Yamasaki does as well. This process was really driven by Judges and executive officers. We had six Judges on the group including five presiding Judges. The matter was divided. Early on decided that we could divide this into two segments, one relating to what process should be employed, and secondly, what criteria should be looked at. Again, we're not dealing with hundreds of millions of dollars here, we're dealing with a relatively small amount of money in the total scheme of things, but an important sum of money for those Courts that need the help. I just wanted to assure the members of the Council that, Judges and executives were intimately involved in the development of the proposals you will hear about. David...

>> Thank you very much, Judge. I was asked how it was that I was selected to lead this group. And I said I think I missed the meeting. And so, our focus, as Judge Rosenberg indicated was to try to focus on the criteria for this body to consider the requests that come in and the discussions that we had were very, I would say extensive and um, dynamic and, gave us an opportunity to consider some facts and approaches to helping this body reach a conclusion when faced with a proposal for supplemental funding.

>> Appreciate those comments. What we try to do initially is educate the group of all the different forms that supplemental funding, deficiency funding emergency funding, cash flow requests exist, and what we found is there are many different ways we can get funds to Courts and, we think that led to so much of the confusion and lack of knowledge about how we can do that. So the very first recommendation was to discontinue current two forms in terms of requesting funds and create a single format. The executive branch is a single form to gather its various ways of getting funds. We think it helps in training, it helps in consistency so that um, all Court representatives know where to go and we think it's important that you can go to that single form and you know all of the questions you need to answer are all there in one place. So we developed a new form, a single form for supplemental funding that encompasses cash advances, urgent needs we're calling them

now which used to be a deficiency in one form, emergency funding in another. And what we realize is that we still have work to do on these other funding supplemental funding processes, but we weren't, we didn't see that as the immediate priority that we would use that form and amend it to encompass any additional processes we think are important to pursue. Third recommendation, was, relative to some sort of short-term issues with cash advances. Many Courts, that have fiscal problems they will need cash advances to manage cash. It still allows for cash requests. What we're recommending is that the process be delegated to the director of Finance Division to at least on a short-term basis manage and approve the cash flow process so that Courts can get their bills paid, we don't have issues with that. We thought that was at least an administrative, not necessary to bring that to the full Council. It's just managing normal course of business. Fourth recommendation was regarding the process of requesting supplemental funds and what form do they ask for the funds. We had quite a bit of discussion, primarily informed by the discussion that happened with the San Francisco request, and so we put it as an option for the Courts to ask either a one time distribution, with no repayment or a loan. They will be submitted for consideration and provide all of the staff work, the preliminary work we think was important, that is done by staff, but what we heard loud and clear from members of the group is it needed to be a process with the request of the Court. It's not an issue where we get the data we do an analysis and it comes to the Council. What you see before you in the presentation there is a process where we inform the Court, to make sure that our conclusions, are based on a valid assessment of the data. They have an opportunity to correct, if there is anything we have missed. And that, they get the final report prior to it being made public so we make sure there is this process we don't want any surprises. We think this is important for transparency and make sure we're seeing the data and coming to a proper conclusions that we haven't misinterpreted anything. We would expect that a representative could come to present to Council for questions that are needed. We did, think about timing of these requests because we thought it was, we struggled with this issue. I think as David had mentioned with had quite a a robust debate because this was difficult because you have a limited pot of money. When do you expect Courts to come forward and ask for resources? We settled on 25 days, business days prior to a Council meeting. That allows it to happen anytime of the year. So there is a concerns expressed by some that, we might need to create a more rigid process in terms of timing. Because it might be first come first serve that might not really be, best for the branch that the first come in and all of the funds are exhausted. So I know there is, we would probably want to discuss maybe a potential issue with that.

But, this point, the recommendation coming out of the group was 25 business days prior to a Council meeting. The next recommendation, relates to criteria. The group again had a pretty strong discussion about what is the sort of baseline criteria from which a Court can request deficiency or supplemental funding for urgent leads. We landed on if they projected to have a negative fund balance in a current year. That means that Courts that don't project, project the negative fund balance, but are close, they wouldn't be allowed to submit a request.

But we understand that again, we listen to debate about that whether or not there might be something above a zero level that could be acceptable, but again, that's a difficult decision, we haven't reviewed and revised our minimum emergency reserve policy yet. So do we use that as a criteria, if they are below the minimum.

We know there are issues with the minimums out of the reporting and with the changes in these sort of, with Court security not being in there is a lot of concern about what is the appropriate minimum emergency reserve to have?

But, we think that we weren't eliminating the ability and discretion of the Council to approve something higher than, to achieve a zero fund balance.

>> Can I ask you a question? So if you have a, fund balance that is below the minimum, all right which is one, two or three months whatever it is. Um, but if you are below that and you, you may not be able to meet your bills, I mean is it an opportune receivership as opposed to, request for deficiency funding?

>> I don't think we really got into the issue of a receivership position. Just a matter of if you, at the time you submit, if you are projecting a zero fund balance, a negative fund balance that would make you eligible to request.

>> Okay.

>> That means you could still be below the emergency level.

>> Okay.

>> There have been a few Courts that have run into serious financial problems in the past. And I don't think receivers have been appointed, but, the AOC assigned folks to run them for a while correct?

>> Self service case inquiries. The system will improve the processing of cases and transform court operations with a branch wide documentary management system. It will intergrate with our fiscal systems and will automate our kind of fine, fee and assessment calculations that you've heard that so difficult for our courts. The transition from paper to electronic processing of documents will result in cost and operational efficiencies across all courts. They will improve safety and in the trial courts by providing the public, attorneys, judges and litigants with access to current and accurate information. CCPOR is based on CCMS technology. Nor can anyone say our development costs despite other numbers you may have read is about \$319.1 million for V3 and final V4 development is a wasteful expenditure. We developed CCMS based on user requirements directly defined by the trial courts and not by the AOC. We have now successfully completed our product testing again with trial court subject matter experts confirming that the system meets those requirements. And while some have questioned the cost and the money we've spent here, I believe it's entirely consistent with similar projects of this size and scope including, for example, the state wide -- the state wide system developed and implemented by the department of child support services. I've been told that the development costs for the DCCS system was approximately \$350 million and that covers a single case type.

And despite claims to the contrary, there's never been a single cost overrun in this project. And the only change orders to the Deloitte development contract was

changed as we defined the user requirements in the scope of work for each component and phase of this development. As I've said before yesterday and again today we should have a respective review of our development process and our contract management for CCMS. As the BSA audit relied there are things we could have done differently and better and are now doing better. We have responded to and incorporated all the recommendations made by both the BSA and by the California technology agency. That in all the criticisms and critiques of CCMS, no one, including the VSA, has ever identified even one dollar that it has been misspent or wasted. CCMS has many failures. It's difficult to see how anyone could fairly arrive at that conclusion. Not only have our own testers confirmed the system meets our requirements but the independent third-party verifications requested by the legislature and this council have concluded that CCMS will perform as designed once it is deployed into a production environment. As of this morning, all CCMS product development has now been completed and successfully completed. Mark and I were on our regular Friday morning conference call with Deloitte; went through a review of all of the CCMS deliverables. Almost if not all of them are now in our possession. All components of CCMS including our statistical reports have passed the product acceptance testing and if you recall, our criteria for acceptance were zero level-one defects, zero two level defects and was it 15 on level 3? 15 at level 3, we are 000 on those defects. So it works.

The third-party reports which have been presented to the council and so you've had an opportunity to review now did identify some gaps, some opportunities for improvement in our processes going forward. They did not identify any problems, any issues, any risks with the CCMS product that we have developed. We had responded to the recommendations. We specifically asked K3 who had been retained to do analysis of the product quality to respond to and to develop action plans for both Deloitte and for the AOC for our project management office going forward. And that action plan has now been completed. It's been delivered -- I've not had an opportunity to see it yet. I'm going to be reviewing it later today. And I'll be presenting it to our governance committee for its approval in acceptance probably early of next week.

We will be meeting with Deloitte on Wednesday of next week. Judge Herman and I will be there. We'll sit over with Deloitte and we'll go over the lessons learned from this development process with Deloitte. We will share those results with our governance committees. We will share them with the council.

I also would note that Judge Glen Reeser who has been -- as he characterizes himself from time to time the test pilot for CCMS yesterday went through the performance testing of CCMS simply to confirm that the system met the speed requirements to allow it to operate in a courtroom environment and met all of its criteria and confirmed that it does. We will be doing some additional testing with judicial officers usability testing to ensure we have the system configured for us to do the business system.

>> We will spend a minimum of \$342 million just to replace existing systems with existing functionality without any of the interface with our justice partners without any of the ability to do what the CCPOR will do without any of the abilities to intergrate with our fiscal systems and to allocate our fines, fees and assessments. So we can choose to spend money for inadequate systems, stop-gap systems, Band-Aid systems or we can

spend the money on a system that we designed for our purposes. And that will meet the needs of the branch, not just today but into the future.

We cannot make effective use of CCMS without first deploying it to the early adopter courts, both to blueprint the processes we need and to ensure that we identify and correct any problems within the developers warranty period. As I said we will be accepting the CCMS project probably next week. Deloitte has given us the deliverables they're required to provide under the contract. Under our present contractual agreement, the warranty period commences eight months from the date of acceptance and extends for a period of one year beyond that. In my view it is critical that we have CCMS in deployment in at least one court and hopefully more than one court during that warranty period to confirm that we believe to be the case. And to address any possible issues that may arise during that period of time. We need to establish the enterprise environment that will allow us to add courts to the system. We'll then have the tools and the experience required to make CCMS quickly available to those courts with immediate and critical need. And to let us start modular case type deployments to the courts that have the desire and the ability to use them.

At the Council's July and August's meetings we were asked to return and provide alternatives for deployment that would allow activities to move forward within our current budget constraints. And which would mitigate the impact of our budget reductions and the risks that are inherent in delay. And make no mistake, delay costs money. If we delay deployment and implementation, we clearly incur greater costs in subsequent years. And greater time and inefficiency in trying to start the process all over again.

Mark Moore and his project management staff have worked extremely hard to make maximum use of the resources left to us and to present plans that would allow us to at least have a full implementation and that would be in San Luis Obispo and one other implementation, Ventura. At the council's request we prepared several alternative proposals which if I do it on branch funding and service credits that we're entitled to receive from Deloitte resulting from some delay in completion. And which would make effective use of our product warranty with go live dates in 2013.

As you heard yesterday, however, another option recently became available to us and presents in my view a unique and historic opportunity that allows us to do significantly more in a collaboration with a private nonprofit foundation and with the assistance and support of the State Bar.

A foundation has been a major contributor to establish a national information grid for health care services and medical research. They have contributed or pledged close to a billion dollars to these efforts. Dr. Patrick who established the foundation with his personal wealth is a immigrant and a self-made billionaire who will tell you he will only accomplish what he can provide for the citizens of this state.

>> And I don't think receivers have been appointed but the AOC has assigned folks, collect.

>> It's not called a receiver. And that process begins by the presiding judge contacting me and indicating that they have serious financial problems.



>> With the government code section?

>> Yeah. It happened in Plasser and in Glenn where Jody was in charge of Plasser for a while to bring it back up and Curt was in charge of Glen. And those were loans, where they got loans but they also had receiver component to it.

>> Recommendation 6 is I think sort of a key backbone to what it is that our work is. It's what we expect the court to submit to us as justification and backup information for us to evaluate the requests. There was some question about whether or not we would do some sort of management evaluation to determine if there were new management decisions that put them in this position. And I think our difficulty as the numbers analysts would be to make a judgment about management decisions but I think that by asking the right questions regarding implementation of revenue enhancement systems or what cost containment measures taken, what have you done in terms of employee compensation adjustments over the last five years, those would inform the council as to what they think are appropriate decisions that in terms of an analysis of a shortfall that's different in our minds than the -- how it got there. We want to inform the council as to where -- how they got there, but not to make a judgment about appropriate management or mismanagement or, you know, just improper management decisions.

>> May I ask a question? If a court has gone through an audit process and there have been recommendations as to -- they are do X, Y, Z, should that not be part of the information as to if they have recently gone through an audit and there were recommendations as to correct certain issues, should that not be a part of things that we should take into consideration?

>> Yeah, I think -- I don't know if there's any objection -- I think that's a very valid point. Absolutely.

>> If I can just speak to this particular recommendation. One of the thoughts was for the staff at the AOC to rate or to recommend whether a particular request met a certain threshold and our concern was not to put that responsibility on the AOC staff. I think it would be better suited for this body to have information and make the call. And our goal was to simply provide all of the details necessary for that conclusion to be reached.

>> The struggle was maintaining a consistent approach and evaluation. And when you start introducing some level of judgment and sort of rating you can be criticized. And so we think from being numbers of people we want to focus on the numbers but also bring the circumstances forward in terms of information so there are questions like we said, what have you done managing your fund balances? What has been your approach? There's just a number of pieces of fiscal data and operational data that is used to help determine from the counsel's perspective are a management issue. Are the expend user in the direction that support the need for supplemental funding?

>> So that goes to your point yesterday, Fritz, what if a court has mismanaged itself you would make that judgment rather than staff based on the data.

>> I'm not a board member.

>> You might make a motion.

>> But I think one of the criterias I don't think you're making a judgment call by having -  
- if there were any corrective actions to say they had an audit in the last year, what, if  
anything --

>> That's an excellent point. Especially when it comes to fiscal as opposed to other  
operational issues.

>> Judge Wesley?

>> Would there be anything on the criteria that you would get back information as to  
whether or not the court has received supplemental funding from the administrative office  
of the courts on other occasions and how it was used?

>> Yeah, I think we would have asked that, if we want to be very specific we can identify  
that as a specific data request.

>> Uh-huh, yeah.

>> We're open to any -- I mean, we work to give you as much of a framework that we  
thought was close enough. But we want to make sure this is a process that meets your  
needs.

>> Kim Turner.

>> I want to go back to recommendation 4 because it's the one that gave me, I think, the  
greatest concern in that as Zlatko alluded to, the way the process is spelled out right now,  
any court can apply 25 business days prior to any council meeting which I think might set  
up a process whereby courts that have done their fiscal review early in the year, identify  
that they may have a problem in six or nine months would come to the council, say, in  
October of the year, and request funding, where a court that had not yet gone through that  
process of identifying needs might find themselves just out of luck later on in the year  
because all the money had previously been allocated. So one of the things -- I've had a  
few conversations with Zlatko, that we should perhaps a hard deadline and I'm not  
married to what that would be but a deadline each year by which all courts that want to  
seek supplemental funding could come -- could come to the council and AOC staff can  
go through the analysis on any number of courts that may want to, you know, make  
requests for some of the \$9.8 million so that when the council is looking at the asks  
they're first of all being able to compare, you know, the request of court A against B, C,  
D and E. I think it's a richer analysis at that point but also to make sure that there are no  
courts that are left high and dry just because they didn't get in line first. That's a concern  
that I have. And so one of the things I was thinking is that if we had a deadline -- courts

know their budgets typically by September. If by September 30th you might have a problem, notify the AOC by the end of September. It will be on the October -- you know, end of October judicial agenda if that provides enough staff for staff to do the analysis and then all the courts would be considered at one time. Obviously that deadline is passed for this year. So maybe we should move that deadline out to the end of December or something. But the idea that we try to put a little more of a rigid framework around it just so that everyone has an opportunity to compete for these funds?

>> Two points. Number 1 is that in the PowerPoint, whether there were discussion items that come to an absolute agreement, that's what we put before you, where there was consensus and agreement, those were just presented here and that's why we made a point about putting an alternative and bringing the discussion forward. We'll try to make sure that you're informed about our internal conversation because we thought it was important. We didn't bring the internal discussions but as far as the rigidity of one option I offered to Kim was, maybe you divide the funds into, say, 75% in the first part of the fiscal year and then 25% at the end of the fiscal year so that in the event something absolutely unknown happens in the second half of the fiscal year, you have some ability to address those. But there are ways to work through that.

>> I like that suggestion because there may be an anticipated need but a court could not have predicted by a rigid deadline in the fall that comes up, you know, in March so we would want to have some ability to allocate money to a needy court at that point without saying you missed the boat for this year, see you next year.

>> Judge Baker?

>> That's the very suggestion what I was going to make. What we're suggesting here is triaging the degree of need among the courts 'cause we have a finite fund here. And I think that's a good idea to divide the fund into a semi annual or quarterly analysis.

>> Justice Holden, Judge O'Malley?

>> Chief, Mr. Theodorovic talked about there could be emergency systems to be able to respond to even if we had a so-called deadline at some point during the year. Thank you.

>> I had some questions about the cash advances. And that's mentioned at the end of our materials in the recommendation for and so the question is, is there going to be any limit or cap to a cash advance that would be given? And you have it by the director of finance and within five days. So -- I mean, how big could a cash advance be?

>> I would defer to Steven to give us some history in terms of what the scope of dollars have been and do we have internal limits on cash advances?

>> This past year -- this current year there's only within one course that offered cash advances and in the previous years there haven't been that many.

>> And there's going to be more so I want to be sure that we're ready for the future and somebody is not going to say I need a million dollar cash advance. That's approved but then maybe this community would not have given a million dollars to that court via the cash advance so I'm not really clear on the criteria for your cash advance.

>> Right, the maximum amount of money that would be made available to court would be its trial court cash allocation. It's money given to the court but it's given 1-12 each month. And the other elimination would be the actual cash available for us to provide to the court in the trial court trust and because the state controller's office -- they transfer general -- they don't transfer it all at once at the beginning of the year and they transfer it in pieces and it would depend on the amount of cash available to provide to the courts. So the maximum -- to answer your question, the maximum would be their allocation, the remaining allocation that would be due to any particular court.

>> Okay, thank you. Judge Kauffman?

>> Kim, you raised an interesting point. In San Francisco, we loaned them \$2.5 million and let's assume they pay \$500,000 in year 2, that goes back into the fund.

>> Into the fund, yeah.

>> If you're making loans all the time and you're replenishing it, it's not like you draw down \$9.8 million. You might have more money because of replenishment.

>> Yeah, and we had a good discussion about the loan issue. And we in the submittal -- in the materials there, we require the court to explain why a loan is not a viable option.

>> It may or may not be.

>> As opposed to us making a determination, we actually put the onus on the requester saying, we sort of default to a loan unless there's reason to suggest that they would provide that it isn't a loan. We would think as budgets are healthier in the future, that they would be able to replenish the fund and we would have resources available.

>> If we drew down \$9 million on day 1 we may have a couple million dollars coming over the years?

>> We would have to analyze, you know, four years from now, five years from now when we are expecting payments that that number -- on the available dollars would be adjusted based on the repayment.

>> And I just wanted to say that Zlatko hasn't gotten to the slide ahead but it's the carry forward of unspent prior urgent money so presumably that payment of money would go back to that fund and so it could be in a few years we'll have more than \$9.8 million because we'll be receiving repayment from some courts of funds that were previously loaned. So those funds, I would guess, would then be available to be loaned to other courts if the needs should arise.

>> I don't know if that's true.

>> Does it go to the general fund?

>> I don't think it goes back because as I recall, over the -- since 2000 we had like \$130 million in that ago and we only used \$6 million for the courts and the other has been spent because you have the authority -- you have the authority to use that for other projects after a certain time.

>> That's right. I think we would assume a loan would go back into the trial court improvement fund. The amount of the urgent need amount is based on the formula of one-half of 1% of the funds in the trial court trust fund so that is an amount that comes out -- you know, is identified within the trial court improvement fund. So it doesn't necessarily -- at one-half of 1% is what it is. And for each year. And then --

>> I'm wrong. It wouldn't replenish --

>> It would go to the fund balance. Is in front right, yep.

>> It would go to the fund balance. And I don't want to skip ahead but one of our recommendations for you to direct is to do -- to look at the funds and where funds are available and fund balances. That was an important question raised during the discussion about what are our fund balances? What are they available for and to what extent could they be used in a dire emergency where we have so many courts and we have insufficient improvement funds set aside, would there be any ability to use any of the fund balances? So that's -- I think that was part of the discussion is how do we sort of get our hands around the resources that the branch has to deal with emergencies in the current year.

>> Thank you, Sue.

>> Is this one of the funds that can roll over for year to year or --

>> It can roll over and over. The fund balance can accrue. It does accrue.

>> My question has to do with criteria. I think it's recommendation 6. It says approved criteria but there's no list of criteria in the recommendation. And there's some things on the form and there's some things in the rationale. What criteria are we approving? 'Cause to me that's the whole critical thing. What are we going to ask the courts to tell you when they ask for money.

>> Well, there's a list in the report.

>> But it's described as being the rationale. That's what I'm asking about. Is that intended to be part --

>> That's the information that we're going to be gathering from this.

>> Okay.

>> Let me interrupt you, I'm sorry, Judge Rosenberg. Edith?

>> I'd like to echo.

>> To be asked to review a request on an individual court basis without having some idea of what other courts are facing, I think puts us in the position of having something that happens that turns out in the long run to be very unfair. I will admit I had a horrible flashback to queen for a day. Perhaps some of you are old enough to remember that. There's an element of that to this in that it is a limited fund and it's quite unfair where we have a situation where one court happens to have gotten their request in earlier, ahead of the game and so money is allocated there when it turns out there's even a greater need that we're unaware of in another court. So I certainly agree with Justice Hull and Ms. Turner on the issue of -- we have to make certain that you keep some holdback for something that is unexpected later in the year. But I would certainly like to see a situation where these -- or these requests are -- come at the same time so it isn't just the first one at the trough that gets everything.

>> I'm does that mean that it requires an amendment to the recommendation number 4?  
>> Well, I think the best suggestion I've heard so far, frankly, they do all come in at one time. And say three-quarters of the money is dealt with at one time but a quarter of the money is reserved because -- you know, things happen, unforeseen things happen later in time so you have to have some measure of reserve. But if I could address the criteria issue, that's a fair question. I think what this proposal provides is, A, a process and then a set of pieces of information which are provided to the council to make those decisions, in as fair a way as possible but ultimately it does become a subjective determination of the council based on these objective pieces of information. We're not going to hold up score cards saying 6.8.

>> The determination of that number might be subject for staff. If you look at recommendation 8 it seems to suggest that there might be some more revisions to this policy so in other words I'm not -- whatever motion we make on this agenda item, it seems like if the motion were to accept the recommendation which is 11, which includes 11 parts it's broad enough to in my mind to have staff might determine what that vision may be whether it's 70%, 50% and whether it's quarterly or semi annual.

>> Okay. Thank you, Kim.

>> I want to echo what Edith said. I think there is some value in to having requests all come in at one time.

>> Uh-huh. Is there of so that they can be compared to each other because I think -- otherwise, in isolation, every request looks very meritorious. I'm sure all the requests

will be meritorious, but they need to be looked at kind of in the fullness what's the whole range of requests that we're getting and get them all at one time.

>> Yeah.

>> Mark?

>> The only thing I had was Judge Rosenberg talked about criteria which makes sense to have some true criteria that you're going to use to make this evaluation. The word "rationale" is a little fuzzy for me. If it really is criteria, why don't we call it criteria.

>> You're talking about on Page 8?

>> Yeah.

>> Everything italicized down is the data we're going to be asking for and from that we'll be evaluating that.

>> If there's no more question I can move on recommendation number 7. That relates to terms and conditions that we would have the courts accept regarding their receiving of the supplemental funding including as we mentioned repayment with or without interest. This was an important issue on the next bullet was the development of a remediation plan 'cause there was great concern that if we don't have a sense as to what their workout plan was for the budget year was, that they would be here again to the subsequent fiscal year to ask for supplemental funding again. And so what we want to be able to present to the council, okay, if we concur and there's a need, what is the sense that the council has of the Court's plan to deal with it going forward? So that we're not in a cycle of them continually requesting again reporting on how the funds are used, any restrictions on how the funding can be used. And do we go to the point of having assigned agreements sort of solid identifying the terms and conditions of the approval.

>> Recommendation 8 is just the resolve more -- making sure that we have consistent guidelines and -- reflected in our existing policies regarding the improvement fund usage and if there are any technical updating to the rules of court. We want to make sure that we finish that process up and we make it tidy so that there aren't any loose strings so five years from now we say we didn't update that particular document and there are inconsistencies and make sure they're tight.

Recommendation 9 relate to carried forward unspent monies for the urgent needs. In that discussion it would be a supplement to the calculated amount for that particular fiscal year. Again, that was an issue of providing additional resources to the extent they're not fully allocated in one fiscal year to the next.

Again, recommendation number 9 -- number 10, we identified several other funding requests, methods and what we need to do is just clean those up and come back to you at a subsequent council meeting to make sure they're folded into this process but one of them in particular is related to I.T. and allocations for I.T. costs. We just need to make sure they're all in one place so courts know how to ask for funds.

And finally, recommendation Number 1 and that's to deal with urgent needs it was important by the members of the group that they had a better understanding of what funds and fund balances are available in a current year to address it so whether or not we would expand the pool of resources available to meet urgent needs beyond just the improvement fund. And so we wanted to get your direction to report back at the February meeting on that particular issue. So with that, that's the presentation.

>> Sue?

>> I have a request on the rationale on number 6 because it appears to me that the criteria is that your plans is going to be below zero.

>> Fundamentally.

>> Right. So to me these things are information that the court would use to decide that you have that criteria and whether supplemental funds are going to be given but these are not criteria to me?

>> They're supporting detail to the request to demonstrate that you've met -- that your projection is correct.

>> Okay. Because I'm -- I'm with Mark. That it says when approved criteria and then the list under rationale to me is not the criteria. It's the information to support the criteria. But the only criteria is that you're going to have a zero balance.

>> Your point is well-taken, the baseline criteria is you're projected to have -- go below zero. And these are the pieces of information that must be supplied so you can provide -- I don't want to use the term "proof".

>> Support -- to support your position.

>> Right.

>> That's why I was really asking about that list. Two things are going on. One is we're putting the notice out to the courts that these are the things we're going to look at so obviously if you want to come and request, you got to figure out what you're doing about those items, either what you did do or maybe shouldn't do or what you can do to avoid things so it's kind of a hint on some levels about what's going to be important. But implicit in what both you and Mark are saying we're listing these items and saying -- implying, for example, that if you didn't do one of these things or it didn't look good on one of these things, we might not give you money and that's the part we're, frankly, not willing to just lay right out on the table. We'll tell some court you gave all your monies to your unions and why should we be sympathetic to you. Nobody is willing to say that out loud. But it's going to be in the decision we have to make -- and I'm like Fritz. A lot of a vote.



>> Either do I.

>> But that's a criteria that we definitely want to learn and know about.

>> Well, you want the information of what they did in their union agreements. The criteria is, am I going to say you gave out too much so I'm not going to give any money now?

>> Then we should specify just because it's a little confusing. It says rationale for recommendation and then all these points versus if this is the criteria we should say, this is it.

>> We do need to clarify the terms.

>> Sure.

>> The baseline, criteria, if you will is a zero balance or below zero balance. These items are supporting documentation and information that has to be supplied so that the council can make an informed decision.

>> That's what I think -- it shouldn't even be called criteria.

>> The words need to be changed.

>> Sure.

>> All right. So what are we calling it? Are we calling it factors?

>> Supporting documentation.

>> Supporting documentation.

>> Supporting -- and if I can make -- one other suggestion under 6 it's going back to my original point in terms of if in the last two years you've gone through an audit and --

>> Yeah.

>> Could we put that in there, what things have you done in terms of the fiscal or financial aspect of the audit that you've tried to correct? And that deals with Fritz's concern?

>> We can make a motion.

>> I guess.

>> Is a motion in order, Chief?

>> I believe a motion is in order and potential amendments to the motion pertaining to each recommendation. So it might be easier -- instead of take all 11 instead of take them one at a time but it might be clear for amendments that could be made to some of the recommendations.

>> Okay.

>> So I'm going to take that as a request for a motion for -- regarding recommendation numbers --

[Inaudible]

>> Is that your motion?

>> That's my motion.

>> Second by judge so. Any further discussions on 1, 2, 3. Recommendations found in Page 2. All in favor.

>> Aye.

>> The motion passes to items 1, 2 and 3. Now -- what I'll call recommendation number 4.

>> Can you put 4 up there?

>> 4 is found on Page 6. Supplemental funding for urgent needs request and approval process.

>> Could I make a motion on that? I would move that all requests that we approve -- recommendation number 4 with the following modification that all requests with submitted by September 30 of each year and that three-quarters of the funds available be available at that point in time. And that one quarter of the funds be reserved for subsequent requests -- that present unforeseen circumstances.

>> Right.

>> I don't think -- the problem with "by," you have up until September. That's the issue that we're frightened of having everyone coming in June, July and August. So we want one definite date?

>> Yeah, September 30th.

>> On.

>> Versus by because people would think they can do it in June, July.

>> I accept that friendly amendment.

>> Okay.

>> I would just suggest since there have been times that budgets had just been passed in September or hadn't been passed and so there should be a mechanism for exceptions where there's a late budget or some other circumstances where a court doesn't know what they're going to have.

>> Can I make -- if your idea is the end of September with an idea of a July 1st budget, then how about 90 days after the budget's passed?

>> I would accept that as a friendly amendment.

>> Would that read all requests be submitted --

>> By --

>> On --

[Inaudible]

>> After the budget passes?

>> Correct.

>> On the 90th day after the state budget is assigned.

>> Assigned.

>> Chief, can I ask a question? Do we want to limit ourselves? I think we should leave something because, you know, maybe there's a carry standard case and there's a change of venue and someone pulls a time waiver and there's this unanticipated need. I'm just concerned if we're flooded with legitimate requests, are we hamstringing ourselves by saying 70%. I see the wisdom of having some defined amount but I see it could hamstring us.

>> I think what we would do we would return to you -- maybe we stick with the 75 now but then we have the discussion about whether or not there's any other funds and that in the event that there is this flood and we believe that there's some opportunity to use any of the other fund balances we can have that conversation I think in February when we've done a fuller analysis of the funds that are available and whether or not there's anything to supplement that. And then I think we could possibly revisit that number and provide some flexibility in terms of if there's an overwhelming request that fully exhausted we might need to address those but then we might have to think about dipping into some other funds in the event there's other catastrophes later on in the fiscal year

.  
>> So I was going to suggest that, you know, the 75/25 split presumably, Zlatko, if there's some date we have to determined, that the remaining 25% could be allocated to the courts that had requests in the previous fall if, in fact, we weren't able to fully fund the requests that they had. So if I request \$1,000 and you only give me 750 in the fall, I may get that 250 later in the year if, in fact, there are no other requests that would, you know, supersede it. Is that -- is that a possibility? Instead of it going back into the fund.

>> Yes. Judge Pines and then Judge --

>> The more I listen to this, the more complicated it seems.

>> It is.

>> I'm just trying to think through the process here, Judge Rosenberg. Did the presiding judges have an opportunity to review this proposal?

>> All the presiding judges, no. But there were presiding judges on the group that worked through these proposals.

>> A number of them --

>> Yes.

>> The leadership of the --

>> Attachment E of the report shows all the participants. I realize this is a fairly significant measure and we just got this the part of our package the last few days.

>> The leadership of the presiding judges got this.

>> Let me ask this were there any comments that we should be concerned about from the presiding judges as to this proposal?

>> The effort was to strike a fair balance in terms of the process and also in terms of so-called criteria. You know, you don't want to present criteria or requirements on courts that are too onerous but I think the information sought is fair information and information that the judicial council ought to have.

>> I understand.

>> I understand. I understand we have to act fairly properly because we're facing this San Joaquin issue and we should prove and perhaps there should be some consideration to revisiting these guidelines if there's sufficient outcry or concern. Later recommendations. That's something we should consider. In want to get an idea of process because there is a --

>> I'll do my best to handle the outcry.

>> If you'll handle that.

[Laughing]

>> So this is what my notes reflect of the friendly-friendly amendments. All requests be submitted to the AOC on the 90th day after the state budget is signed by the governor. 75% of these funds will be available. 25% of the funds will be reserved and have until the end of the year. And that's all I have thus far in terms of the amendment.

>> My comment just goes on that allocation portion of the amendment that 75/25 discussion.

>> Uh-huh.

>> My understanding of the statute, government code section 77209 that talks about how this money is reserved says expressly that one-half of the fund will remain unallocated prior to March 15 of every year unless various criteria of unanticipated critical financial obligations are determined. So I would submit that the construction of the statute suggests that the entirety of the fund would be available if that criteria is met. And that I'm not sure we would have the authority to say different.

>> I think we're speaking to when it's expended, not when it's reserved for any purpose. It would still be available for urgent needs up to March 13th. It's just a matter to when we decide to allocate those resources. We can choose as far as the process as to how we can do it. It still would be available only for urgent needs until March 15th and then it can be used for other nonurgent needs. The caveat as I understand it, it can only be used for urgent needs up until March 15th and if it's not used for that, then it can be used for that purpose. How we spend it up to March 15th is our discretion.

>> Sue?

>> Well, one of my things when you were saying until the end of the year I was thinking March 15th might be the deadline for the second request. Unless there's something between March 15th like Nevada's computer system or something. And the other was, I would want to say commencing with the next fiscal year and do we want to make a deadline for people that want to make it for this year? 'Cause September 30th has already passed or 90 days from the budget has already passed for this fiscal year.

>> First, let me take this -- do you accept the friendly amendment Judge Rosenberg until the end of the year to March 15th?

>> Yeah, yeah.

>> In recommendation 4 as it currently reads, it also provides that the requests are to be submitted at least 25 business days prior to the council meeting I don't know if all requests are going to be received on the 90th day. Do we need to set what council meeting would be addressed is 25 business days going to be sufficient?

>> That's what we thought we would need in terms of staff time in order to evaluate the requests.

>> Evaluate all of them or one?

>> We would do them -- we would do them all. We were expecting that they would come around the same time. But the concern there would be an early need and late need but generally around the same time because when -- they need to know if they have six months to adjust their expenditure patterns. They're going to be asking in the fall. So we were expecting that we would be getting through them at this time of the year anyways.

>> The motion is okay except commissioner Alexander raises a good point for this year. Leaving the motion as is, I think we have to add the caveat that for 2011, the deadline for submission would be -- and what's 25 days before our December meeting, when that is?

>> That's cutting it close.

>> Rather than saying they have to submit them all on one day, why can't it just be that they submit them during that 90-day period and then we consider them at the next council after that, 25 days after that so they can submit that -- if they submitted it one day before, does that mean we wouldn't consider it?

>> But the decision would be all at the same time.

>> Yeah. So it would be --

>> No later than instead of on.

>> Yeah. And it would be at the next Council meeting that's 25 days after.

>> And I think it was before -- they current process that there was a time frame that at the point he received it when we had to have a decision on it. And so I think they were sensitive -- they do it early they have to wait a long time but to make it clear you may have your analysis done we can get through your work but you will have to wait until the appropriate council meeting.

>> Correct.

>> If I can just complete that thought for 2011 I think we have to have a different deadline not later than and, Zlatko what would be the appropriate not later than since our

meeting is November 13th? Is in front I don't think the courts would be able to pull together in this time. Yeah.

[Inaudible]

>> Okay. Which is the 16th.

>> No later than 25 business days before the February meeting?

>> There's also a one-day January meeting.

>> A one-day January meeting?

>> Chief, thank you, I wonder on this point -- it would appear to me at least that the only request we're going to get -- and I may be wrong is going to be from San Joaquin county still in the council loom do we not set a schedule for them to make their request?

>> It will be evaluated for the December meeting.

>> Okay.

>> Okay. But if we're going to set a time period again for other periods --

>> And the kings court has come to us for a need of funds.

>> And are we changing the rules in midstream? Do they need their money -- if we're going to say we're fought going to make any decisions out until 60 days out and at the council meeting will that affect San Joaquin? And I think I'm getting that -- over your shoulder I can a nod of your head?

>> My back is turned and I can see the nod of the head.

[Laughing]

[Inaudible]

>> I think we have to not just have that limitation.

>> I think we have to allow any court to submit for the December meeting, if they wish to.

>> It doesn't give them very much time.

>> My concern is if we act today and if we set a deadline of, say, November 15th, will that allow other courts sufficient time to do the analysis, to make the requests to give Zlatko's team time to do the evaluation in time for the December meeting. So my question is, and perhaps -- I haven't seen the nods because I haven't been looking in that

direction. Since we are having a January meeting instead of just a February meeting is it possible to provide a cash advance to San Joaquin until such time as we're able to hear all the requests in January?

>> And they've been getting them. They've been getting cash advances already.

>> Okay. We're already at the point where that is not a viable --

>> It's not --

>> To the next --

[Inaudible]

>> You're asking for \$2 million and there's more than that in the fundraising. So even if they got within the request, if other courts came to the table late there would still be money in there.

>> Judge?

>> I think this is a transition here I think we have more than three motions now floating.

[Laughing]

>> The deadlines that we should talk about are prospective in terms of what's going to happen this year I think we should just let the courts come when they come because that's what we had done for San Francisco to make people have rules apply for them while we're in the transition it doesn't seem as fair.

>> Chief, if I may ask, from a criterion evaluation, we do that. In terms of timing that's not where we're saying they can come in anytime but we're going to evaluate them in the same manner as presented in the report?

>> Yes.

>> So here's the friendly amendment that doesn't contain the fiscal year '11, '12, so all requests be submitted to the AOC no later than 90 -- no later than the 90th day after the state budget is signed by the governor. 75% of these funds will be available. 25% of the funds will be reserved to March 15th.

[Inaudible]

>> That's your amendment, Judge Rosenberg.

>> That's my motion and I accept all those friendly amendments. The only issue is that we understand that will not apply in this transitional year?



>> Correct.

>> This is prospective rules that will have to happen later in time next year. But with that understanding, that is the motion.

>> Thank you. Any further discussions? Seeing no hands raised, all in favor of recommendation number 4 as amended?

>> Aye.

>> Any opposed?

>> Recommendation 4 passes.

>> We only have got eight more to go.

[Laughing]

>> This is now recommendation number --

>> I have one for number 5. I was listening to Judge Rosenberg and I'll just ask this question, are you -- are you really saying approved that the criteria be that the court is projecting a negative balance. And then number 6 would be approve information that must be submitted to the council or the AOC. But basically -- those would be my amendments to 5 and 6.

>> Okay. I second that motion.

>> You'd second it?

>> Yeah.

>> I'll make a motion and he said he would second it.

>> Okay.

>> With the audit information included.

>> The audit information in 6 would be my friendly --

>> We'll take one at a time.

>> Okay. Recommendation number 5 as amended, approved criteria that the court is projecting to zero balance.

>> Negative fund balance, zero fund.

>> Zero balance can apply for urge needs funding.

>> Uh-huh.

>> Regarding recommendation 5 at discussion.

>> It winds up just a criterion if that's all it is. I think it's important that we retain maximum flexibility particularly at this early stage till we get some experience in this area. The other option would be to defining some kind of criteria as we often see as judges when we have to make certain findings. In other words, that there are -- we find there are exceptional circumstances here or that there would -- we find there are significant adverse consequences to the public -- if we should have criteria and looking at the various factors that should be raised in number 6. I don't mean to complicate things here. It looks like we have a lot of criteria if all you're looking at is a negative balance.

>> Judge Rosenberg?

>> That's a pretty significant criteria.

>> Criterion.

>> That's a good baseline, simple criteria that I think we can live with.

>> It gives us a lot of flexibility.

>> Absolutely.

>> As you said earlier, the decision eventually becomes quite subjective.

>> At that point, it becomes subjective and it becomes a weighing process. There may be ten courts that come in at that point. And there'll be some weighing and maybe we are not able to distribute as much money as each court would like. You know, we're limited by the money available.

>> Uh-huh.

>> Okay. Any other --

>> I only submitted my criteria based on your -- what your committee came up with. But if you want to make it more flexible, I think that -- is that what you're saying?

>> I'm fine with the -

-

>> You are happy with it?

>> Leave it that way.

>> It gives us the most flexibility, that's for sure.

>> Any further discussion? Seeing no hands raised, all in favor of recommendation number 5 as amended, say aye.

>> Aye.

>> Any opposed? The matter passes. Now number 6, recommendation number 6, had two amendments.

>> Uh-huh.

>> I understand that was recommendation number 6 is to be approved information that will be used by the council to evaluate request for urgent needs funding as described in the rationale and then Judge Jackson indicated that the friendly amendment to Mark Robinson's motion would be -- include audit --

>> In the last two years if there had been an audit.

>> Include audit history of last two years.

>> The most recent --

>> The most recent audit -- okay, that's fine.

>> Okay.

>> And what steps they have done.

>> For the criteria.

>> As part of the information --

>> Information.

>> Including the most recent audit if there was such an audit.

>> And any kind of --

>> Yeah.

>> Remediation.

>> Yeah, remediation.

>> I'll put that under financial information.

>> Yes.

>> Include most recent audit and remediation measures.

>> Uh-huh.

>> I believe there was a motion and a second already and --  
oh --

>> Correct.

>> What was the motion seconded?

>> Thank you. Any further discussion on recommendation number 6 as amended? All in favor?

>> Aye.

>> Any opposed?

>> The matter passes.

>> Chief, I would move to accept the recommendation --

[Inaudible]

>> I second.

>> Second by Justice Hull and Justice Miller. Any further discussion?

>> I just have a quick question. On number 9, we're changing our urgent need request policy for the indefinite future. Why is it on 9 that we're limiting that to the 2011/2012 fiscal year in the 2012/2013 as opposed to just providing for rollover on an annual basis?

>> I don't think we were led to the fiscal year. It was just how it was presented. I don't have a particular rationale as we put to the fiscal year.

>> Should that be modified that we roll over from year to year?

>> Yes.

>> It may be that as an optimist, times may improve. And I think we should now consider the rollover as it is recommended in line -- we can look at it again at the end of

the fiscal years listed, but I think to require a rollover indefinitely in the future could create a problem of an ever-increasing fund where we shouldn't do that. So if we limit it to these years where I think --

>> Yeah.

>> I'm not optimistic enough to think we're going to be completely out of the water by this point. But it could happen sometime in the future.

>> We had an exact discussion but it was, we would at some point if the fund balance grew, we would then come back and say we need to remove the restrictions but we don't have any issues.

>> Judge Baker?

>> So historically it hasn't included a rollover?

>> No. Not for this specific purpose.

>> It would make sure --

>> Yeah, let's --

>> Leave it as is, as no friendly amendment is being made?

>> Any further discussions --

>> Can we put a time limit then if we're going to just have it rollover those, I think, two outyears? Can we say in number 10 that we would have a report about a back at the end of the year so we can --

>> You can do whatever you'd like.

>> Can I add that to the --

[Laughing]

>> To recommendation number 10 and the friendly amendment to number 10 is that AOC report back in -- what is that? What year?

>> 12/13.

>> Don't you want --

>> 12 and 14 results of --

[Inaudible]

>> And expenditures.

>> And we couldn't direct it.

>> Without that friendly amendment taken, any further discussion? All in favor?

>> Aye.

>> Any opposed? The matter's passed.

>> Exactly.

>> Chief, if I can just say the discussion we had it was not different from the dialog that we had from this group. And in our respective groups. And Zlatko and his team had to sift through all of the dialog. It gave us a lot of information to try to drill to and they did it in a very short period of time and I want to thank him and his team for getting this information. It was very difficult in a short period of time so nice job.

[Applause]

>> David Yamasaki, Zlatko and Steven Chang.

>> It's nice to see parliamentary --

[Laughing]

>> One moment, Edith.

>> Perhaps I missed something, but I think we didn't make a final decision on this year, on when requests needed to be made and so I think for the clarity of the courts that we need to have some direction as to what happens for the remainder of this year.

>> We did say at one point that we would not speak to the issue, what I call -- instead of legislative intent, judicial council intent, but I'll have the members speak to that. Judge Yew?

>> So I was the one that suggested that we allow it to be open during this transition year. I think that most courts are listening with interest to this discussion and it's going to behoove them to move quickly if they need to. But my concern was if we did put a deadline out there which hadn't applied to one recipient of funds already, that, you know, San Joaquin is here. It might -- if we had a deadline, they might be shrugged down farther down the road and I think down this transition year we should be as flexible and accommodating to the courts as we can be.

>> Yeah.

>> Well, could I just add one caveat to that? There is one minor criteria and that is if there are requests coming in, they need to come in 25 days before a council meeting. So that creates, you know -- there's a council meeting in December. There's another one, when, in January?

>> Yes.

>> With that information.

>> So that's sort of an implicit deadline. When you want to be heard 25 days before the meeting, minimum.

>> Thank you. Alan?

>> We have a meeting on November 9th. This is on the agenda. We will make it real clear that is the time.

>> Thank you.

>> Item N, special funds allocations, Zlatko and Steven.

>> Okay. In fiscal year 10, 11, council allocated a little over \$2 million for various projects and programs that support the trial courts. There was \$45 million unused and a share of that is being requested to roll over for expenditure in this fiscal year. In our July meeting when we considered --

[Inaudible]

>> But we did not know at that time what funds were being rolled over 'cause we didn't have final expenditure reports. That's why it's coming to you now. Staff have requested a little over -- almost \$7.9 million in rollovers. And what was the provider process. But go back to the trial court working group to consider these requests. Similar that has been done with all the special fund requests this fiscal year.

Since that time, so now we have before you recommendations regarding nine projects \$7.7 million. We split it into two what was recommended for approval by the budget working group and they relate to three items, domestic violence funding, workers' compensation claims and some expense related to the Phoenix financial system. The rationale for the recommendation was that they would be used to directly benefit the public. Prior liabilities and contractual obligations and they would assist in saving the trial courts some much-needed resources. The items that were not recommended, they're listed there. The descriptions are included in the materials. I think it was important during the discussion with the issues there was a focus on preserving as much funds as possible for addressing future fiscal shortfalls and so there was quite a bit of discussion about, well, can these be used for addressing -- if they're not spent, would they be available to use against cuts to the courts in the future. And so there's a number of issues

related to CCMS, other I.T., some important projects but in the eyes of the budget working group, they were not as critical as preserving those dollars for court operations. And many of these projects, they do benefit courts. And those were discussed and the rationale is identified on the next slide, the dollars are available to help courts in the future fiscal years.

>> Kim?

>> I know you're going to turn off my mic soon if I don't shut up today.

[Laughing]

>> I thought I would just take a moment to talk about the recommendations that -- or the -- am I on my button? No, okay.

>> Turn it off already.

[Laughing]

>> It's already been turned off.

[Laughing]

>> I wanted to just talk for a moment about the recommendation that were not -- for projects that would be defunded which are now in the CCMS area because at the time the trial court budget working group looked at these projects, it was before the announcement about this potential opportunity that may, I think, give more opportunity for the CCMS project to move forward, the one that we heard about today. And I know there are a couple of projects -- if you look at your handouts, unfortunately, this thing is not numbered. It's like four or five pages in.

>> It's with before the announcement of this potential opportunity that may I think, give more opportunity for the CCMS project to move forward. The one that we heard about today. I know that there are a couple of projects, if you look at your handout, unfortunately, this thing is not numbered. It's like five or six pages in. It would be the item number 8, which is, CCMS, development, there is a request for funds for Ventura and Fresno counties to provide CCMS testing. And, I would just urge us to take maybe another look at that one and also at number 9 which is related to CCMS as well. There is related to a contract, and in talking with the CCMS staff, I'm aware that these are already, as we say, sunk costs in other words, Fresno and Ventura have already gotten the money so what it does, it just shorted that minimal amount of money left in the CCMS budget this year. And so these, these um, funds have already been expended for instance Ventura and Fresno and so this is an opportunity for us to perhaps, back fill them given that the you know, the change in circumstances at CCMS is facing.

>> Judge Wesley.



>> Well I was on that call and I want to tell you that there was a lengthy discussion about those issues. I don't think anything that has happened since would change the minds of the presiding Judges that voted. The vote was not even close. They wanted this money preserved and they did not want to spend it on CCMS and they made that clear. There is a long presentation and, you were on that call I believe. It was a long presentation to the presiding Judges and the members of the budget working group. They, were very strong that this money not be spent. And I think the Council should beware this was not a close vote.

>> Thank you.

>> Any other comments?

>> I wasn't sure if you were finished with your presentation?

>> I think we needed to get to just, you got to the rationale. That was the recommendation consistent with the Trial Court budget group.

>> I would move to accept the recommendation.

>> I will second it.

>> Judge Klein and Judge SOH second. Any further discussion?  
All in favor?

Aye.

>> Any opposed.

>> Matter passes.

>> I wanted to bring to your attention something that Justice wanted me to briefly discuss. Understand the state controller has sent out a letter, to Judges regarding the pay process. I just wanted to provide a little clarification. I think it was being handed out a copy of the letter that was sent by the controller. They are implementing a new human resource and management system trying to reduce the number of plans that currently exist. Apparently there are 27 different methods in which the controller pays paychecks. They are trying to streamline that before they automate into five. So, one of the first groups to be consolidated include legislatures, constitutional officers, state agency secretaries, various department directors members of boards of Commissioners and Judges. We wanted to let you know what was going on. It won't affect your pay, just a matter of timing and I think one of the most significant issues that we wanted to let you know about is that because of the timing of the pay that the 2012, calendar year will only include 11 paychecks. Because, the paycheck that would have come at the end of December will now roll into the beginning of January and I think that the letter, um, I'm

no HR expert I just wanted to bring the information to you. But it is, it is many, many groups are being impacted by this and they think it's just a necessary part of the automation. They don't anticipate any problems for you, but do put caveats for you to beware of.

>> One of the concerns that was raised was whether or not the language in here indicates that we're being shifted from a constitutionally elected officer into an employee position.

>> No, and, as I understand it, at the beginning of the letter the second paragraph, that this particular one includes Judges, legislatures, constitutional officers you're all being treated the same. You're not being moved to being treated like somebody just the timing of the payments so their system can accommodate a fewer number of pay periods.

>> Can my suggestion be that you confirm that in some way and then provide that information to Ron so that he could distribute it to David, Judge Rosenberg so he could get it out to the PJ's?

>> Absolutely. I'm sure Judge Reuben is going to say a similar thing, but there has been concerns expressed by Judges as a result of this letter because we are in fact, constitutional officers and we don't, have a five day work week. I mean, Judges, on duty 24/7. It would be useful to have some sort of legal look at this, and um, make sure that doesn't in any way diminish our capacity.

>> Reuben.

>> Right. On behalf of the CJ membership I'm getting feedback of tremendous concern about this. This comes at a particularly inappropriate time and the timing for us and the timing the day after yesterday's announcement. They refer to us as state employees. The second sentence clarifies that state employees mean obviously that is of significant concern to CJA and its membership and a clarification you can get would be appreciated.

>> I think it is, I don't want to speak, without knowledge, they talk about in terms of the paid plan, the timing of the payments. It doesn't, as I understand it doesn't impact, but I will get clarification so I can be more informed on the issue.

>> They may talk about it in terms of paid plan. When we're up there talking about issues of concern the branch, and they see us, there is sometimes lack of understanding about whether we're a branch or department, I see a letter like this it makes me feel like I'm not being particularly clear.

>> Okay.

>> We'll get clarification for you on it. I mean this is a letter from the controller who may not have the same sensitivities we would inside the branch in terms of, status of individuals, Judges, other constitutional officers and that kind of thing. But we'll get full clarification on it and send it out. This is just, a new computer system. Essentially what

it is. And all state employees, constitutional officers, legislatures, Judges, are going to be paid in that way. Instead of the current way. That's the only, in the technical change.

>> So you will look into it and send it out when you do your web, when you do your email addresses?

>> Yes.

>> Thank you.

>> Justice Hull.

>> Just a comment on that when you look into that will that include whether or not there are any at least for this year, tax ramifications to that change? Could there be?

>> There could be.

>> When you file for 13 there will be, the letter does mention that, I think the 12 annual taxing.

>> I haven't had a chance I just got the letter.

>> It will be 12 months into 11 months so your payments will be a little higher.

>> We'll get you clarification.

>> I know the person that signed this letter. We work together. DOF so um call Jim up and make sure we get the right kind of information for you.

>> Thank you. Any other new business or matters that we're going to discuss before we close?

>> Judge Reuben.

>> I just have one comment I wanted to make in reference to something that Justice Miller said this morning with respect to the issue of pensions and what was happening. I just want to say that, you mentioned CJA and we're looking forward to working on initial pensions closely with and coordinating with the branch actors and trying to figure out what is happening. Obviously it is sensitive. We're going to do initiatives out there. We also want to see what we can do with and work with those folks. So, I want to thank Justice Miller for that and um, she will have a robust and vigorous partner. We're particularly concerned about all of our members, but obviously as you saw from the handout we got this morning from Mr. Child, the issue with JRS1 members is particularly vexing and so, even more so than all of the others. All of the others are very serious as well. I want to thank Justice Miller for that and we're ready to go. In in closing as

we often do, sadly we close, with a brief remembrance of Judicial colleagues who have recently deceased. They are Judge Frank Superior Court of California county of Orange. Judge Joseph, Municipal Court of California. Judge Howard, Municipal Court of California Antelope. Judge Arthur Wallace, Superior Court of California, County of Kern. All were retired from the bench and we honor them for their service to the Courts and the administration of justice in California.

We close our business meeting and I thank you for the two days of intense discussion and give and take and great suggestions and comments. I will see you soon and safe trip.

>> Thank you.

>> Thanks, Chief.